

MAY 24, 2005

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain this morning is Father Paul Witt from St. Mary's Catholic Church, here in Lincoln, Senator Foley's district, District 29. Father, please.

PASTOR WITT: (Prayer offered.)

SENATOR CUDABACK: Thank you, Father Witt, for coming over and being with us. We always enjoy having you with us on these mornings. I call the eighty-fourth day of the Ninety-Ninth, First Session, to order. Senators, please record your presence.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Any correction for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Mr. President, I have neither messages, reports, nor announcements at this time.

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to first agenda item, General File, appropriation bill. Mr. Clerk, LB 126A.

CLERK: Mr. President, LB 126A, by Senator Raikes. (Read title.)

SENATOR CUDABACK: Thank you. Senator Raikes, you're recognized to open on LB 126A.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. LB 126A, of course, is the A bill accompanying LB 126. And I want to take a little bit of time, in introducing this, to make sure that you understand all the financial implications involved, and also the reasoning for that. First

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off, the amounts involved. There would be up to \$650,000 for the second year of the biennium for which we are now budgeting. Nothing in the first year, but it would be in the...up to \$650,000 in the second year. If you go to the out biennium, one that is not covered in the A bill--the A bill only deals with the budget biennium--there is...there are some financial requirements there. And I want to make that clear to you. There would be up to \$650,000 each year of that out biennium, and then none. This is a three-year transition program, involving replacement of REAP funds. And I'll mention this in some more detail in just a moment. It's a three-year transition program. That transition program would end with the end of the upcoming or the out biennium, if you will. In that out biennium, there also could be up to \$100,000 available for each school that passes a bond issue for an elementary building and meets other very stringent requirements. Again, that is not in the biennium for which we're budgeting. That would be the out biennium. That \$100,000 per school...and I think there are a total of, like, 11 schools--I'll check that number to make sure--that could possibly qualify. And certainly, the belief is that not all of them would. In the...what I'll call the following biennium--we're getting way down the road now--in the first year, there would be possibly an obligation for \$100,000 per each of these qualifying schools, and then, again, nothing. So this is requiring expenditure of monies by the state. But it is all specifically and definitely time-limited, for programs that I will try to give you more detail on. And that's what I'm going to turn to now. What's all this for? It really is to accommodate the transition in organizational structure that is being proposed in LB 126. There are two parts of that. One of them is to hold schools harmless financially. And I will refer you back to our discussion at the end of General File, where that is one of the points that we're going to negotiate on, in terms of addressing the accommodations for LB 126. The second general point is to provide some state incentives to local school districts that have not been able to address elementary building needs. This was not mentioned, quite frankly, at the end of the General File discussion. It came up as a part of our later negotiations. So let me go into just a little bit more detail, hopefully without taking a lot of time here. Again, the negotiation at the end of General File mentioned specifically

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unique financial impact on Class VI schools. There were three areas of potential concern. The first area was teacher salaries. In trying to determine the financial impact, the evidence indicated that salary schedules for Class I districts in Class VI systems are not, on the average, lower than the Class VI salary schedule. So it was felt that no financial adjustment was needed there. The next issue was transportation, which was addressed in the compromise amendment to LB 126, the most recent one, by eliminating the transportation requirements for high school students in all classes of school districts. Mind you, we did not eliminate the ability to transport those students, or the reimbors...reimbursement, rather, in the state aid formula. The third and final area was the loss of REAP money--Rural Education Achievement Program. REAP grants are federal grants for the REAP program, and are designed to assist school districts with fewer than 600 students, that are located in rural areas. There are five Class VI systems currently, receive grants based on the sizes of districts within the system, but will not qualify as an assimilated district because there are more than 600 students in the system. And this group was...is, in fact, the focus of this financial reimbursement program. The way the grant works is that each qualifying district receives \$20,000, minus the amount received from other specified federal programs. If the qualifying district has more than 50 students, the district then receives an additional \$100 for each student over the 50-student threshold. So the base amount is \$20,000 for 50 students. If you have less than 50 students, you don't take anything off of the \$20,000. If you have more than 50 students, up to 600, there's an additional \$100 per student, up to that amount. You'll hear that there are other school systems that will lose REAP funding due to assimilation. However, most of these systems will continue to qualify for the \$20,000 base and the additional \$100 per student over 50 students. And just a quick side comment there, keep in mind that the modal, if that's the right statistical term, size of a K-12 district in Nebraska is less than 300 students. So the typical K-12 system in Nebraska has less than 600 students and would qualify, at least under the \$20,000 plus \$100 per student. The districts that were the focus of the compromise amendment were both the high school district and the Class I districts, currently qualify, and the assimilation would cause a

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complete loss of those funds. The compromise amendment simulates the federal formula in replacing those funds for a three-year transitional period, for a total cost of \$650,000 for each of the three years. And again, let me remind you, the second year of the budget biennium is all that's involved in this A bill. But you need to be mindful that this is a three-year program, and it would continue into the out biennium. Another component of LB 126 compromise amendment that will cost money, but that is not included in the A bill, are the elementary improvement grants. These grants are designed to assist districts that approve a bond issue to improve the educational environment for elementary students with diverse economic and cultural backgrounds. That's important, because that's major in the requirements. One of the points made during the General File debate is that...my feeling that the entire system should support the building needs, particularly where there is a building that has a disproportionate number of students who are in poverty or who do not speak English. These grants would be up to \$100,000 per year for three years, beginning in 2007-2008. And again, this is a very small amount of money, intended to get the ball rolling in terms of addressing elementary building needs in these particular districts. So let me summarize here quickly. We have, according to the Fiscal Office, \$12.7 million annually--this is going back to the beginning of General File--that can be redirected locally. And at that point, there was no A bill. How did we arrive at this point? All right. The main notion is that we have made a valiant effort--and I will absolutely admit, not all voluntary--to accommodate and I...to smooth the transition. And even though I don't necessarily agree with all those points, I am in favor of a smooth transition, and that is what we're trying to do here. Keep in mind also that the \$12 million available to be redirected by the local school boards are still there. They are the monies that can be redirected by the K-12, either to other programs, or...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...to tax...reductions in tax asking. That is still there. Our accommodation, however, you need to understand, makes this money come available over a longer period

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of time. That is, it's not going to be nearly as up-front as the way the bill read on General File. But again, that is something that I don't disagree with. It eases the transition, the accommodation, so I favor that. The A bill amounts, they are, again, two main areas. One of them is this financial accommodation in the transition. And the other is to address elementary building needs. So with that, I'd be happy to address questions. I urge your support for the advancement of the A bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on LB 126A. (Doctor of the day and visitors introduced.) On with the next motion. Mr. Clerk, please.

CLERK: Mr. President, Senator Heidemann would move to amend with AM1705. (Legislative Journal page 1717.)

SENATOR CUDABACK: Senator Heidemann, to open.

SENATOR HEIDEMANN: Senator Cudaback, fellow members, I put this amendment before you not lightly. I wanted to learn a little bit more about the REAP funds. I wanted to learn a little bit more about what we're about to do here, and maybe to get people thinking just a little bit about the actions that we have taken. What this amendment will do will strike line 1 on page 1, "\$650,000," and take it to zero. We can do this and still follow the statute as they have wrote. We actually would not have to appropriate \$650,000 this year. We could come in next year and appropriate this amount as a deficit, and still fulfill what they have intended in LB 126. The reason that I want to do this is "a couplefold," threefold, more than one reason. And that is, number one, REAP funds are not guaranteed year after year after year. There is no guarantee that the state of Nebraska...that any school district in the state of Nebraska will get REAP funds. They are federal funds, and they can be cut off at any time. I don't know why we want to appropriate funds to make up for something that we might not even get in the first place. That's reason number one. Number two, as the last days have gone down the road, I keep looking at this green sheet, and we have went from \$48 million, down, down, down, down. And if you look at impact of bills pending, you go to

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Final Reading, E & R Final, and then you go down to line 42, variance from minimum reserve if we do the Select File E & R Initial, and we are at a negative number. We are already going to rely on the Governor to veto things just to make it work according to law. We are about to add, in this biennium, \$650,000 more of a deficit. I think we really need to start looking at things, where this money is going, how it's being spent. And I think we need to discuss it and think about it long and hard. If Senator Raikes would ask...answer a few questions, I would like that.

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

SENATOR HEIDEMANN: Isn't it true that we wouldn't have to do this this year? We could strike this money, come in next year as a deficit, do the \$650,000. Give us more time to think about this, make this sheet look a little bit better this year--it's probably not the way to do it, but it would happen that way--come back in next year as a deficit, \$650,000, and accomplish the same thing that you're trying to do right now.

SENATOR RAIKES: I think the key phrase, Senator, was, it's probably not the way to do it. A lot of what you say I don't agree with. And in fact, I wish you would have made the same speech yesterday on LB 28. I think we're going way too far in terms of appropriating our state's tax base. But that's a whole other issue. On this one, keep in mind, you're exactly right about federal funds and the transitional, or transitory, nature of them. This language specifically says "up to" \$650,000. So if the Appropriations Committee decides to appropriate less, then that will be accommodated. And in fact, it is prorated according to what they would appropriate. I will tell you that I don't like the idea of saying that we are going to do this transition program and then not providing the money. I think it is simply responsible for us to say, if this is what we're going to do, and we have agreed to that, then we need to appropriate the money to do so. And I guess the other thing, just to...and I don't want to take too much of your time here, and I'll give you some back if you'd like that. We need to battle this out,

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in terms of that green sheet. And I'm glad you're looking at that, because that's very important. I don't think it's the...a proper role of the body, basically, to simply hand this off to the Governor. And in fact, we have not done that in recent years. We have figured it out. I think we need to do that again. If we are making a commitment to fund something, then it needs to be on there, and we need to make room for it. So I'll go on to your second question. Thank you.

SENATOR HEIDEMANN: I will talk a little bit. I think we agree about the green sheet. Is that correct?

SENATOR RAIKES: Yes.

SENATOR HEIDEMANN: And we're going to add \$650,000 to line 42, and that's going to push it to \$1 million that we're relying on the Governor to do the right thing. What, out of everything on that back sheet that it looks like we're going to pass, if you're going to pass this \$650,000, are we going to cut out of here?

SENATOR RAIKES: If you want my own personal opinion, I think I've already hinted at that. But that, what I'm trying to suggest to you, is the job we have to do. And in my mind, our responsible role is to come up with a proposed budget that works, we as a Legislature.

SENATOR HEIDEMANN: I understand that. And I actually agree with some of the things that you said. It's probably not a big secret in here, I wasn't a fan of LB 126. But I really...when the amendment came out and I seen this part of it, to me, right there, it made me believe that LB 126 was wrong, because we was trying to cover our tracks or something. I am adamantly against that part of LB 126. When we pass LB 126, and I'm going to ask Senator Raikes a question here again, what was the main thing that you was after?

SENATOR RAIKES: Senator, I would say that there were two issues. One of them is efficiency, and the other one is equity. I'm sorry, I didn't...is that a time...?

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SENATOR HEIDEMANN: You was adamant when we was negotiating that you was going to get one thing, and that was what?

SENATOR RAIKES: K-12 organization.

SENATOR HEIDEMANN: There you go. And when you get K-12 organizations, according to the REAP funds, you're going to lose your local LEAs, according to the REAP fund. And what happens when you lose those LEAs?

SENATOR RAIKES: I'm sorry, would you repeat that, Senator?

SENATOR HEIDEMANN: According to the REAP fund--and this is how I understand it--you...there's...according to the formula, you get \$20,000 base per LEA. And according to LB 126, we lose the Class I's, you lose your LEA, and because of that, what happens?

SENATOR RAIKES: The school...if the K-12 is bigger than 600 students, then there would be no eligibility for REAP money. Anything under 600 students, even if it's a K-12, would be eligible. And that's the reason for my point that the typical, or modal, I think is the right term, for K-12 districts in Nebraska is something around 300 students. So most all of them would qualify under the REAP program. I think there are some other qualifications, maybe, besides just the 600 number. But a great many of them would qualify. It's interesting that a lot of them that would qualify, I believe, don't actually apply for it, and I'm not sure why. And keep in mind, too, that the \$20,000 is...you take out of that any other federal grants that would qualify, so that quite often there's not the full \$20,000. It's something less than that, depending upon what the school system receives in addition to the REAP money.

SENATOR HEIDEMANN: Wouldn't you probably agree, though, that these Class I's probably don't...as a whole, don't qualify for any other fund, so they probably do get the full REAP grant fund, because they're not into any other program which would subtract from the REAP fund?

SENATOR RAIKES: Well, I think the average across the state, I'm told, is \$18,000. So there may be a few that get \$20,000, but

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then there would be some that would get less, to bring the average down to \$18,000.

SENATOR HEIDEMANN: That's correct. Because most of the smaller schools don't apply, or...

SENATOR CUDABACK: One minute.

SENATOR HEIDEMANN: ...they don't get the other fund. So they get more of their full refund than do the larger schools. I think at this time, I'm running a little bit out of time, I'll just go ahead and quit for right now. If anybody has any questions that they would like to ask me, or...I would like to see some discussion on this. This is, I think, very important, something that we need to talk about. Thank you.

SENATOR CUDABACK: Thank you, Senator Heidemann. You've heard the opening on AM1705, offered by Senator Heidemann. Open for discussion. Senator Pederson; Don, that is.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I would direct my discussion to the A bill itself. And I've reviewed the fiscal note on that A bill. Number one, I'm glad that Senator Raikes is bringing it to us in this fashion. I think the appropriate way is to provide funds for the implementation of this, and not to look back to any kind of a deficit sort of thing. But it does appear to me--and I'd like Senator Raikes' comment in this respect--in reviewing the fiscal note, it appears to me that they have tried to provide adequate funds to meet the potential needs, recognizing that it's pretty hard, in the early stages, to know exactly what it's going to be. But it appears to me that they have provided more funds, perhaps, than would be necessary. But I think that's appropriate. If we don't use those additional funds, it would certainly lapse. But I think, in order to implement any law that we do--and this is a very substantial matter of legislation for us--I think we need to provide adequate funds, or provide for adequate funds, to implement that law. And I would like Senator Raikes' comment on my conclusion, that they have tried to evaluate what may happen, and perhaps have provided additional funds in the anticipation that perhaps some of those

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things will be needed, but it appears to me that it wouldn't necessarily entail all of the provisos for money. Senator Raikes, would you comment on that?

SENATOR CUDABACK: Senator Raikes, would you...?

SENATOR RAIKES: Yes, I would...thank you, Senator Pederson...in two ways. One of them is, there's a cap. It can't be more than \$650,000. And the second thing is, it can be less. It's whatever the Appropriations Committee...well, the Legislature--the Appropriations Committee would certainly recommend to the Legislature. May well appropriate a lower amount of money. And if, in fact, that's what they decide to do, there's a mechanism in the statute to prorate that among the schools that would be eligible.

SENATOR D. PEDERSON: Thank you. I appreciate your comment. I support LB 126A. Thank you.

SENATOR CUDABACK: Senator Raikes, you may continue, if you...

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I think maybe, in response to the questions directed by Senator Heidemann, I've made most of the comments I want to make. Again, this is something that we have agreed to do in the spirit of accommodation and compromise. It was not a part of the original bill, but it's something that is important, I think, to achieve an orderly transition to get us to the K-12 organization to deal with the financial impacts. This particular bill deals only with the upcoming biennium. It is up to \$650,000 in that...the second year. Nothing in the first year of the upcoming biennium. It is...this is right down the line of what it is we need to do. What it is, is our responsibility as a state government. We are responsible for K-12 education. We delegate a lot of that to K-12 districts. We're suggesting here a reorganization of those districts, which I think makes eminent sense. So to the extent that we...there are financial requirements associated with that transition to a different organizational structure, it simply makes good sense that we do that, and that we fund that. So on that grounds, I again ask for your support. And if Senator Heidemann would like

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some additional time, I would yield.

SENATOR CUDABACK: Senator Heidemann, would you like some of Senator Raikes' time?

SENATOR HEIDEMANN: I could ask a few more questions. It's not my intent to take up time on this. This isn't...I'm not trying to slow things down. I really am trying to get people to look at things. Man, once again, I really think that we should look at what we're doing. I think we could not do this. I mean, according to the wording--and Senator Raikes, if I'm right on this--if the total of all target amounts exceeds the appropriated amount, the target amount shall be reduced proportionately. So would we really...except that we said we was going to, would we really have to, according to this, do the A bill...do the money for the A bill?

SENATOR RAIKES: (Microphone malfunction) Senator, another way to look at that...

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: Yes. Another way to look at that is that if you did the A bill, and the Appropriations Committee recommended to the Legislature and the Legislature agreed not to appropriate anything, that would be completely inbounds, as well. My preference, my belief, in terms of correct procedure in these instances, if there is a commitment made, then the commitment should be reflected in our budgeted amounts of money. We should set that money...that amount of money aside and, to follow on your point, not only do that, but come up with a balanced budget after having done that, after having recognized appropriately the amounts of money that we planned...or, that we have committed.

SENATOR CUDABACK: Senator Heidemann.

SENATOR HEIDEMANN: I...there's five schools, is that correct, that are going to qualify for this, the way it looks right now?

SENATOR RAIKES: There are five that it appears would qualify.

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There may well be some that could come in or fall out of that class.

SENATOR HEIDEMANN: And what five are those? Do you know that?

SENATOR RAIKES: That is on the bullet sheet that came out in our discussion on LB 126. And I'll read them for you quickly: Adams Central, Valentine, Schuyler, Northwest, and Wood River.

SENATOR CUDABACK: One minute.

SENATOR HEIDEMANN: How much would Adams Central get, underneath this transition?

SENATOR RAIKES: The estimate for them would be \$160,230.40.

SENATOR HEIDEMANN: What did they get in 2004, REAP funds, money from the federal government?

SENATOR RAIKES: I don't have that number before me right now, but I can try to come up with that for you.

SENATOR HEIDEMANN: I looked that up. And from what I can ascertain, it was \$42,000. And how much was that figure that you said...

SENATOR RAIKES: That...excuse me, Senator, go ahead.

SENATOR HEIDEMANN: Is that correct?

SENATOR RAIKES: I don't think so. That number would simply be for the high school itself. The high school had fewer than 600 students. So if you count the Adams Central system, the high school plus the Class I's, I believe the number is \$165,988.

SENATOR HEIDEMANN: So we're counting...

SENATOR CUDABACK: Time.

SENATOR HEIDEMANN: ...we're counting the Class I's?

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SENATOR CUDABACK: Time, Senator. Thank you, Senator Raikes. On with discussion. Senator Louden, followed by Senator Heidemann.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I would...may I ask Senator Raikes some questions, please?

SENATOR CUDABACK: Yes, you may, if you he'll respond. Senator Raikes, would you respond?

SENATOR RAIKES: Yes.

SENATOR LOUDEN: Senator Raikes, it is my understanding that there's a lot of these school districts, especially Class I's, that receive this REAP money. Now, under the system the way you're describing it, would they still be entitled to REAP money, some of these Class I districts that are scattered all out through the western part of Nebraska?

SENATOR RAIKES: Senator, the Class I's would not, because under LB 126 there are no separate Class I districts. The K-12s that they become a part of, a great many of those K-12 districts would be eligible for REAP funds. Now, not to hide anything here, the amount of money per school district is \$20,000 maximum for 50 students. If you go down from 50 students, there's no reduction in the \$20,000, less other grants. If you go up from 50 students to as high as 600, there's a \$100 addition for each student, each ADM.

SENATOR LOUDEN: Yeah, well, my...

SENATOR RAIKES: But there would be...there would be many K-12 systems in Nebraska that would and in fact do now qualify for REAP grants.

SENATOR LOUDEN: Well, when you have your list of schools here, like Valentine, I mean, there's a lot of country west of Valentine there that those school districts had qualified for a REAP fund. I'm sure of that. And how come they're not included in the list to be eligible to receive some of the \$650,000?

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SENATOR RAIKES: Again, Senator, the K-12s continue to qualify. Our focus here was on those school systems that, given the reorganization, would no longer qualify for any REAP money, because they would exceed the 600-student cap.

SENATOR LOUDEN: Well, then, like, Sioux County, I know they won't exceed 600 students, and neither will Gordon-Rushville put together, I'm sure, won't exceed 600 students.

SENATOR RAIKES: And they would qualify, then, for REAP grants, Senator.

SENATOR LOUDEN: Okay. But should they have been on this list, then? Or...I guess my question is...I'm concerned that if they're not on the list that they won't receive any REAP funds. That's what my concern is.

SENATOR RAIKES: No, that is not the concern. In fact, if you're on this list, you won't receive REAP grants. If you aren't on this list, chances are, you would. Although certainly, Lincoln Public Schools and Omaha Public Schools and so on would not be eligible for any REAP grants.

SENATOR LOUDEN: Yeah. Now, if they do receive some of this REAP funds, that money goes into the general fund of the K-12 district that's formed up? Is that correct?

SENATOR RAIKES: Yes.

SENATOR LOUDEN: And then, in other words, some of the smaller schools in the areas that were qualifying for REAP funds, they might not necessarily receive any funding whatsoever, depending on what the K-12 school board decides to do with that money. Is that correct?

SENATOR RAIKES: Senator, I'm sorry, I didn't listen as carefully as I should have. Could you give me that once more?

SENATOR LOUDEN: Yeah. If some of these small schools that's in these K-12 districts then that qualified for REAP funds,

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that...this money will go into the K-12 general fund, right, the REAP money?

SENATOR RAIKES: Right. It does. And it is not an accountable receipt, in terms of the state aid formula.

SENATOR LOUDEN: Yeah. Then in other words, some of the schools that actually were qualifying for this refund out there, your smaller attendance centers, or whatever you want to call them nowadays with your new system, they might not necessarily receive any of that money whatsoever, although they were the ones that qualified the larger district to receive them. Is that correct?

SENATOR CUDABACK: One minute.

SENATOR RAIKES: I think, Senator, that the way we've got this--and I'll check to make sure--any eventual K-12 system, I'll put it that way, that would receive no REAP money...or, well...or rather, several of them, don't...simply don't bother to apply. But if they were ineligible for REAP funds, REAP grants, then they would be on this list. So I think everyone that's involved, with the exception, again, of Lincoln Public Schools and some of those, if they're still eligible...if they're no longer eligible, they're on this list to be compensated. So...

SENATOR LOUDEN: Right. But I...but my concern is that the new K-12 school board is the one that has control over those REAP funds, and they can distribute it however they see fit.

SENATOR RAIKES: Oh, I understand what you're saying. Yes. The K-12 board would have control over the...

SENATOR CUDABACK: Time, Senator Louden.

SENATOR RAIKES: ...funding, yes.

SENATOR LOUDEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Senator

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Heidemann.

SENATOR HEIDEMANN: I have more questions for Senator Raikes, if he would yield.

SENATOR CUDABACK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: Yes.

SENATOR HEIDEMANN: We was talking about Adams Central. Then the second one on the list was Valentine. Is that correct?

SENATOR RAIKES: Yes.

SENATOR HEIDEMANN: And they received...they will receive how much?

SENATOR RAIKES: The estimate there is \$191,260.

SENATOR HEIDEMANN: Okay. Do you know what they received in 2004, (inaudible)?

SENATOR RAIKES: \$198,827.

SENATOR HEIDEMANN: What did Valentine Rural High School receive?

SENATOR RAIKES: I don't have the...that's for the entire system, Senator. So I don't have that broken down by the high school versus the individual Class I districts?

SENATOR HEIDEMANN: I have not quite yet understood the formula, how you came to this. Because I know that Valentine received \$29,000 last...in the 2004 award period. The Class I's, I'm sure, you know, brought you up to, I think you said \$198,000?

SENATOR RAIKES: Yes.

SENATOR HEIDEMANN: Okay. The REAP fund formula gives you a base of \$20,000 per LEA. Is that correct?

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SENATOR RAIKES: Yes, \$20,000, less other grants, for 50 students.

SENATOR HEIDEMANN: Correct.

SENATOR RAIKES: If you've got more than 50 students, it would be more than \$20,000.

SENATOR HEIDEMANN: By a little bit, yes.

SENATOR RAIKES: By \$100 per student.

SENATOR HEIDEMANN: Okay. And how you figured the formula, how much...how they got back up to that \$191,000. Because after...the way the REAP fund would work, if they still qualified, if they was below 600,000 (sic), was to take the \$20,000, plus the other formula, then the students times \$100. Is that correct?

SENATOR RAIKES: Yeah. Except we made sort of an average adjustment for other REAP...or, other grants that would reduce the REAP grant. So that averaging caused us to go to 80 percent, I believe was the number we finally came up with on that. If that's responsive to your question.

SENATOR HEIDEMANN: Well, I just keep looking to see what the...Valentine Rural High School got the \$29,000. We're at \$191,000 now. I kind of took that difference, and roughly that's \$160,000. Is that correct?

SENATOR RAIKES: Yeah. I trust your arithmetic on that.

SENATOR HEIDEMANN: And according to the formula, if they had still qualified, which they don't, and you took that...average student is worth \$100, they would have to add 1,600 more students that they're picking up from them Class I's. So to me, we're getting away from our REAP formula. Well, it's actually...it's not REAP, it's different...called something different, but it's in the REAP program. Do you see what I'm saying?

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SENATOR RAIKES: Let me try to rephrase it, Senator, because I probably don't quite see it. But suppose...and I don't know what the case is. But suppose you had ten Class I's in a system, plus...a Class VI system, plus a rural high school. And let's say that the ten Class I's, some of them didn't apply, but of the ones that did, they got \$160,000 in REAP grants, and the high school system, which at that point was less than 600 students, got \$30,000, so that the total amount that the system would get through the REAP program would be \$190,000, roughly, if I've done the arithmetic correctly. All right. Now let's say we do the reorganization...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...such that all the students in the Class I's and the high school go together, and they exceed the 600-student level, so they're no longer eligible for REAP funds. So if you were going to replace...to hold them harmless financially, you would need to get the...provide the \$190,000, or some fraction thereof, depending upon what other grants they had that might make them eligible. But again, we're talking about a situation where a school system, or districts, would go from qualifying for this particular federal grant program, to not qualifying.

SENATOR HEIDEMANN: I understand that. But I really believe...and I'm trying to get this clear in my mind. I really believe that your formula is wrong, how we're trying to compensate them. Because really, according to the REAP formula, they would only be getting, of the amount of students coming in from the Class I's, \$100...

SENATOR CUDABACK: Time, Senator Heidemann. But you may continue. Your time is next.

SENATOR HEIDEMANN: ...per student, \$100 per student. They would lose that base, what they would get every time. And in your formula, you're almost compensating them for that base.

SENATOR RAIKES: Right. I think, again, we've got the \$20,000 per school, or \$20,000 per LEA. And with the reorganization, it

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no longer qualifies. And you can only get the \$20,000 if you've got fewer than 600 students.

SENATOR HEIDEMANN: That's correct. But I really...if we are going to compensate them, then we need to compensate them according to the REAP formula. And you have got away from that, because you're considering them still separate LEAs, and they are not. They will be one LEA. But they won't qualify, because they're over 600. So let's say that they qualify, but stay with the REAP formula, and I will get off this...

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: Yeah, I don't...I'm not sure I fully understand what you're suggesting, Senator. But if you have a different approach, I'd be more than happy to listen to that. I would remind you that this is a General File discussion, although this is the A bill. But if it amounts to a different amount of money, then we could take that into account. I believe what we've done, again, and I've repeated that enough, is to address the financial impact of a school system losing...or becoming ineligible for a REAP grant. And we've tried to do that as fully as we could.

SENATOR HEIDEMANN: And I do understand that. And even though I don't agree with it, I can see that's probably going to happen. But I want to get back to reality. And I don't...I'm not for sure we're at reality here, because we're going above and beyond the REAP formula. And that's all I'm trying to do here, or, that's what I'm trying to point out, that we are not there. We are above that. Because you are still acknowledging those LEAs, and they are still getting part of their base. And all I'm trying to do is make that school go back to the REAP formula, be one LEA, you'd have your base, and then times 100. And that's what the REAP formula is. And you have gone above and beyond that.

SENATOR RAIKES: Yeah. And again...I think I'm understanding a little bit more. What you're saying is that we're going to assume that there's one school district, \$20,000; there are over 600 students, but we're going to assume they stop at 600

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students and that's the amount of money that...and certainly that, in terms of an appropriation, wouldn't be my recommendation, but that appropriation would be under...or, in play under both LB 126 and this A bill.

SENATOR HEIDEMANN: I'm not even saying stop it at 600. I will recognize all the students that they will have. All I'm saying is that they will still qualify. And instead of federal funds, we're going to get them from out of the General Fund, which I don't agree with, but if that's what our intent is as a body, then I guess that's what we're going to do.

SENATOR RAIKES: Okay.

SENATOR HEIDEMANN: But I just don't want to go above and beyond what they would get out of REAP.

SENATOR RAIKES: Yeah. And again, this is written flexibly enough that that sort of an approach is within play, when the time comes.

SENATOR HEIDEMANN: Would you agree...be agreeable to bracket this, and you and I go off to the side and talk about this? Bracket it till tomorrow, when we can start again?

SENATOR RAIKES: No, I'm not. We're on General File. I would be more than happy to have such a discussion before the Select File discussion.

SENATOR HEIDEMANN: Why can't we? Why can't we do it right here? I was always told that the place to get things done is on General File. Let's do it. Let's do this right.

SENATOR CUDABACK: One minute.

SENATOR RAIKES: Again, Senator, I'm more than happy to have a discussion with you. But I...there's time to do that between now and Select File, and that's what I would like to do.

SENATOR HEIDEMANN: I'll give the rest of my time back to the Chair, for right now.

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SENATOR CUDABACK: Thank you, Senator Heidemann. There are no further lights on, Senator Heidemann. You...it's your time. And you have spoken...

SENATOR HEIDEMANN: Is this closing?

SENATOR CUDABACK: You've already spoken. You have closing left, and that's all.

SENATOR HEIDEMANN: Senator Cudaback, fellow senators,...

SENATOR CUDABACK: You are closing.

SENATOR HEIDEMANN: Yes, I understand that. Thank you very much. I appreciate the discussion. I understand what he's trying to do. And I really think that if we're going to go ahead with this, that we do need to get together and talk a little bit, and maybe we can understand each other a little bit better. At this time, I want to withdraw this amendment. And I have a following amendment that I'm going to run.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk, please.

CLERK: Mr. President, Senator Heidemann would move to amend with AM1706. (Legislative Journal page 1717.)

SENATOR CUDABACK: Senator Heidemann, you're recognized to open on AM1706 to LB 126A.

SENATOR HEIDEMANN: Okay. Let me get my sheet here. All this would do would be strike the \$650,000, line 1; insert \$300,000. I didn't pull this figure out of the sky. Where this come from, according to the REAP formula, once they got to...according to the REAP formula, you are eligible, up to \$60,000. And the reason I come up with \$300,000 is that there are five schools that look like they're going to be able to get this money from the...out of the General Fund because of the transition costs. I took the five schools, times the \$60,000, which is the maximum amount that REAP will give you, and I come up with \$300,000. And I don't do this lightly. I really believe that this is a

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good amount to go forward with. And I'm just...I'm going to go...quit with that right now. If people have questions, continue a discussion. I've enjoyed the discussion this morning. I think everybody has learned a little bit more about REAP funds than they probably would like to. But I think it's important that we do that before we go ahead with this A bill. With that, I'll give the rest of my time back to the Chair.

SENATOR CUDABACK: Thank you, Senator Heidemann. You've heard the opening on AM1706 to LB 126A. Open for discussion. Senator Raikes.

SENATOR RAIKES: Thank you, Mr. President, members. I appreciate, again, as Senator Heidemann mentioned, the discussion. I oppose this amendment. I am trying to honor my commitment to a smooth transition associated with LB 126. And I think the A bill, the way it's written, does that. I appreciate the difference in opinion that Senator Heidemann and I have on that. More than happy to discuss this on...any time between now and the next round, which I will...if he doesn't seek me out, I will seek him out, and we'll have such a discussion. But it...I do oppose this amendment. Thank you.

SENATOR CUDABACK: Senator Heidemann.

SENATOR HEIDEMANN: I'll keep this short, and we'll keep moving here. Like I said, once again, it's not my intent to slow things down. I just do want to clarify with Senator Raikes a little bit, if he would yield to a couple questions, just to make sure that I'm on the right track here.

SENATOR CUDABACK: Senator Raikes, would you yield...

SENATOR RAIKES: Yes.

SENATOR CUDABACK: ...to a question?

SENATOR HEIDEMANN: Isn't it true, according to REAP funds...and this is all I'm trying to do with this amendment, is...that there's a maximum capped amount at \$60,000 per school? If you get to that \$60,000, that's as much as you can get?

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SENATOR RAIKES: Yes, that is true.

SENATOR HEIDEMANN: And all I'm trying to do with this amendment is say, hey, folks, we got Class...we got K-12 districts now; let's live with that, according to the REAP funds. If they lose them, I'm even saying, okay, we've got transition costs. Some of these schools are going to go above 600 students; they will lose REAP altogether. I'm not trying to cut them short on that. But all I'm trying to do with this amendment is say, look, folks, they could only get \$60,000 out of REAP, so that's what we're going to give in exchange, what they could actually get out of federal funds. And that's all I'm trying to do. I don't think that's unreasonable. And with that, I'll just quit. If there's anybody that's got any more questions, I'd be happy to answer.

SENATOR CUDABACK: There are no further lights on, Senator Heidemann. You're recognized to close on AM1706.

SENATOR HEIDEMANN: I am going to take this to a vote. I want to see what people think. I believe that \$300,000, I believe that \$60,000 per school...and that is...if you want to know, I will show you, in the REAP formula, you get to \$60,000, and that's all you're going to get. And that's all I'm trying to do with this amendment. There are five schools that will qualify for this right now. You take the five schools times the \$60,000, you get to \$300,000. And that's what this amendment will do, will appropriate \$300,000 to accommodate these five schools. And I urge your support of this amendment. Thank you very much.

SENATOR BAKER PRESIDING

SENATOR BAKER: Thank you, Senator Heidemann. That was your closing. The question is adoption of AM1706. Senator Heidemann requests a call of the house. All those in favor of going under call please vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under

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call.

SENATOR BAKER: The house is under call. All those senators not excused please report to the Chamber. Those in the Chamber please record your presence. Stand by, we're correcting a machine. Please check in at this time. Senator Bourne, Senator Langemeier, please check in. Senator Hudkins. Senator Byars, Senator Combs, please check in. We're still short Senator Bourne. Senator Bourne, please report to the Chamber. The house is under call. All senators are present or accounted for. Mr. Clerk, the motion on the floor.

CLERK: Mr. President, Senator Heidemann has moved AM1706.

SENATOR BAKER: All those in favor of AM1706...did you request a method? Just a board vote? Board vote...machine. All those in favor of AM1706 vote aye; those opposed vote nay. Have you all voted who care to vote? Record please, Mr. Clerk.

CLERK: 6 ayes, 25 nays, Mr. President, on adoption of the amendment.

SENATOR BAKER: The amendment, AM1706, is not adopted. Mr. Clerk. Oh, I raise the call of the house.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR BAKER: Senator Raikes, acknowledged to close on LB 126A. Senator Raikes.

SENATOR RAIKES: Mr. President, members of the Legislature, I appreciate your support on this. I really didn't get an opportunity on the last round of debate to comment a little bit on all of you that have been actively engaged in this discussion. It is a heavy discussion. It involves change, significant change. I'm of the belief that it is definitely for the better. And I very much appreciate those of you who have been supporters all along. And there have been a great many of you, and I realize that doing so has required a considerable amount of courage, and I gratefully acknowledge that. I will tell you that I would also thank the opponents for making the

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contributions they have. And I come out of my discussions with the opponents, still taller than Senator Stuthman, but very little. Thank you very much. (Laughter)

SENATOR BAKER: Thank you for that closing, Senator Raikes. The question is advancement of LB 126A to Select File. All those in favor vote aye; those opposed vote nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 33 ayes, 4 nays, Mr. President, on the advancement of LB 126A.

SENATOR BAKER: LB 126A advances. Mr. Clerk.

CLERK: Mr. President, the next item this morning, Senator Landis would move to return LB 211A to Select File for specific amendment. The specific amendment is AM1499. (Legislative Journal page 1483.)

SENATOR BAKER: Senator Landis, you're recognized to open on amendment...on your motion to return to Select File.

SENATOR LANDIS: Thank you, Senator Baker, members of the Legislature. You'll recall that we used LB 211 as a platform to adopt LB 167, which was the Nebraska Archeological Resources Preservation Act. This is not a General Fund appropriation. This is a...this is permission to use cash funds, and \$11,300 from the State Game Fund. It's a cash fund by Game and Parks, and they asked permission to use that so that they can comply with the act. They also asked for permission to use \$13,300 from the State Park Cash Revolving Fund, another cash fund. All of these are cash funds. There's no General Fund. It's \$22,000 for each of two years. The money is used for their prediction that there may be ten sites under Game and Parks' control that would want to be harmonized with the Archeological Resources Preservation Act. It might cost about \$2,000 of cost per site. But these are funds we have. We're asking permission to use the cash funds for them. And it is acceptable to the Game and Parks Commission, it's acceptable to the Historical Society that we do this, and that we need to exact the permission of the body to permit this transfer, essentially, to occur. I'd ask for the

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adoption of AM1499.

SENATOR BAKER: Thank you, Senator Landis. Is there anyone wishing to speak to Senator Landis' motion to return to Select File? I see no lights. Senator Landis, you have the option of closing on your motion to return to Select File. Senator Landis waives that. All those in favor of returning LB 211A to Select File for specific amendment vote aye; all those opposed vote nay. Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the motion to return the bill.

SENATOR BAKER: The bill is returned for specific amendment. Senator Landis, you are recognized to open on AM1499.

SENATOR LANDIS: I ask for the adoption of AM1499, a two-year use of cash funds by Game and Parks to comply with the Archeological Preservation Resource Act (sic), which we passed earlier this year. And that's the contents of this measure.

SENATOR BAKER: Is there anyone wishing to speak to AM1499? Seeing no lights, Senator Landis, to close. Senator Landis closes. The question is adoption of AM1499. All those in favor vote aye; those opposed vote nay. Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Landis' amendment.

SENATOR BAKER: AM1499 is adopted. Senator Flood, a motion to advance, please.

SENATOR FLOOD: Mr. President, I move the advancement of LB 211A to E & R for engrossing.

SENATOR BAKER: All those in favor signify by saying aye. Opposed? It is advanced. Mr. Clerk.

CLERK: Mr. President, LR 12CA, resolution on Select File, considered yesterday. At that time, an amendment by Senator Stuhr was adopted. The first motion I have this morning,

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Senator Redfield; AM0998, Senator. (Legislative Journal page 1115.)

SENATOR BAKER: Thank you. Senator Redfield, you are recognized to open on AM0998.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. This would be the "Larry and Carol" amendment. Let me tell you about a story. Larry is a public servant. He works hard for the people of his state. He serves well, and he's compensated. Carol is also a public servant. She works hard to serve the people of her state and she is compensated. However, Larry is compensated at a rate 266 percent higher than Carol. Are we talking about gender discrimination? No, we're talking about legislative discrimination. Because in fact, we're talking about the difference in salaries between the Legislature in the state of Nebraska and those who serve on the county board here in Lancaster County. I think that in any discussion of the ballot issue that we are proposing to put before the people of Nebraska on legislative salaries, we need to talk about the compensation for other officials that are elected in the state of Nebraska. We've talked before on General File about how we compensate the courts, how we compensate the executive branch, and certainly how we compensate the legislative branch. But I don't believe that we've had any discussion as to what other elected officials, say, city councils or county commissioners, earn in the state of Nebraska. Why is that important? Because I think that it is a vital part of our discussion. We all serve the people of Nebraska, and I think that we want to deal with something somewhat proportionate. I will tell you that the amendment that follows this, that I intend to withdraw, dealt with a proportionality between the legislative officials and the Supreme Court officials, because I believe in three equal branches. And actually, what I have thought about doing is saying, if we have 7 Supreme Court members, we have 49 legislators, if each legislator made one-seventh of the Supreme Court judge salary, then in fact we would spend the same exact amount on salaries in each branch. And that seemed very proportional. The only flaw with that is the fact that the Legislature actually sets the salaries for the Supreme Court justices, and I thought that the people might be uncomfortable

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with even that indirect control of salaries. So I looked for another elected body in the state of Nebraska that we might peg to, that would have a growth factor. I have before me the county board listing from NACO, their salary. And I will tell you, this is based on 2003 through 2006. And the salaries were what were set in 2003, but they have all changed, because in fact they have a growth factor. And it varies by county. Some are 4 percent, some are 2.5 percent. It is really up to the county board. But when you look at Madison County, which is actually the highest rate in the state of Nebraska, their Chair currently makes \$32,716.58 a year, and that includes retirement benefits and a county pickup's use. You see that in Douglas County we are compensating \$26,042. That also includes retirement and, I believe, health benefits. You see down the list that in Adams County it's only \$12,729, but they also include retirement and mileage reimbursements. And you see that we have dental, vision, life insurance, disability insurance in some of the counties. So you see, if you look down the list, if you've ever looked at what NACO distributes, that in fact we recognize the value of our county commissioners, and I don't believe that we have actually granted the same respect to the Legislature. So I'm hoping that there will be some discussion today--a very short discussion, I hope, so we can move the bill--but of perhaps where...what direction we want to go in placing a ballot issue before the people of Nebraska. Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Redfield. Senator Schimek, to speak on AM0998.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I do think that it's a good thing to have this discussion, because we all do know that there are many elected officials who are compensated better than we are. But I think it's important to have this discussion, because a little bit later we're going to be having a discussion about another possible amendment to the Stuhr amendment yesterday that will raise that amount back up to \$21,000. And we're going to give that to you as sort of a compromise. But you know, I do think people in Nebraska would support the \$24,000, particularly if the discussion comes out during the campaign about what other elected officials make,

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particularly if discussion comes out during the campaign that this would take us back up to the...what the rate of inflation would be in 2007, plus you have to consider the next two years at least, because you can't change it before 2009 again, and doubtful...it's doubtful that we even do it then. So I don't want us to be weak-kneed about this. I don't think we need to be weak-kneed. I think we can, with justification, go to the public and ask them to do a raise. We have to remember that, last time, we didn't ask for a raise that was double the amount that it had been; it was a raise that was two and a half times what it had been. And people did listen, and they did accept that. I think we have to give people in this state credit for being willing to do what's fair. So this debate on the Redfield amendment is important in putting our salary in a place with all of the others that are out there, too. We haven't even begun to address again today what salaries are in other states for legislators. I just wanted to say, I think this is a good discussion to have. I don't think it's probably going to last too long, Senator Redfield. I think you mentioned that in your remarks. But thank you very much for the opportunity.

SENATOR BAKER: Thank you, Senator Schimek. Next is...Senator Engel, you're recognized, followed by Senator Erdman and Senator Stuthman. Senator Engel.

SENATOR ENGEL: Mr. President, members of the body, this pay raise, I think, is very, very necessary. When I was appointed back in '93, I knew what the pay scale was. But the only thing is, it was a point in my life where I could afford to come down here. All my children were out of college, I didn't have those expenses, so I felt that I could afford to come down here. And I think with the present pay scale we have, it limits it to those who can afford to come down here. Either you're semi-retired, like I, or you had a business where you could operate it and serve down here, or you're someone just starting out who doesn't have a lot of responsibilities to start with, and who still have a desire to serve. And I appreciate everybody having that desire to serve. However, people...first things first. You have to take care of your family, you have to have a roof over your head, you have to be able to feed the family, et cetera, and you can't do it on this \$12,000 a year.

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And I do like the citizen aspect of it, which, we never should raise it to the point where you could...this is all you have to do to make your living, because then you lose the aspect of having a citizen legislature. However, I mentioned this one time at a function, and I was talking to a gentleman from Louisiana, and I'd just finished reading the book on Huey Long. And I was making comments to this...he's a legislator in Louisiana, and he said, yes, he said, we have the best politicians in Louisiana money can buy. Well, so perhaps that's what we have here, too. I got an e-mail from one of my constituents two years ago. He was disgruntled over something, which is fine. There's nothing wrong with that, in not agreeing with what you do. But here's what he accused me of. He says, you legislators down there, you get in your new Cadillacs and you go down to your country club, your country club, every noon and have your three-martini lunches, and et cetera, et cetera, on those big dollars you're making. So at that point in time, they just come out with our pay stubs, showing what our hourly rate is. How it's calculated I don't know. But I just sent him back a copy of this. It says, regular pay, so many hours, and the rate, 5 dollars and 76.9 cents an hour. So I sent this back to that gentleman. I said, now, dear sir, thank you for your concerns, but if you can show me how I can buy a new Cadillac, how I can pay country club dues, and how I can afford three-martini lunches on this salary, please call me back collect, because I'm very interested in living that lifestyle. And I never heard from him again. So in other words, I think it's perception, perception. People out there don't realize what little we are making, and what our expenses are. And I think if they finally figure that out, but it's going to take some selling on our part and other people's part to tell...to show them that we are not making those big dollars. We're down here as...we're down here to serve. And that's why we're here. Because you're not doing it for the money. It's definitely not for the money. But I think to open up the door for more people who can afford to serve, I do think we have to raise the salaries. Thank you.

SENATOR BAKER: Thank you, Senator Engel. (Visitors introduced.) Next speaker, Senator Erdman.

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SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. Senator Redfield has a very interesting proposal here. And I think it's appropriate to discuss comparisons. I really do. I was discussing with Senator Redfield yesterday the reality that I face in my own family. My father is a county commissioner. He receives health insurance. And actually, his salary is more than mine. And some have commented to me that I should have probably ran for that office, either for their own opinions here, or for the reality of the salary. But here's what I find interesting. In the state of Nebraska, the counties--and this is just total spending--counties across the state of Nebraska spend \$5.45 million annually on their own salaries, \$5.5 million. We spend 300-and-some thousand, because our budgets...or, our appropriation is \$632,000 over two years. So to compare apples and apples, it's 10.5...or, excuse me, \$10.9 million in salaries to those elected officials. They work hard, they flat-out do. The other...another comparison. There are two-thirds of the counties in the state of Nebraska pay either at or above the \$12,000 salary for their county commissioners or supervisors; one-third pay less. Of those one-third that pay less, only two counties do not provide health insurance benefits to their elected officials, as far as county commissioners; only two. So if you compare...if it's a family, even if it's an individual policy with other benefits, you're probably getting pretty close. If you're one of these counties that's at \$5,000-\$6,000 and has an insurance policy, you're looking at a pretty good amount of benefit there as well. So is it fair that we come down here and make \$12,000 a year? Probably not. Are we going to come down here if it is \$12,000 a year? We will. Because there's 49 of us here, there's always been contested elections, unless you're from Norfolk. That's going to be a reality of this process. And I don't know what Senator Flood did to earn that. But I think the reality is, is that the public respects us when we ask for a specific amount. I think that's what's been successful in the past. And Senator Beutler has other ideas. Senator Stuhr got one adopted yesterday. And I think Senator Landis' comments were accurate yesterday. It has to be the number. It has to be on the ballot. And I think the public expects us to ask when that happens. And the reason is, is that we won't set our own salary. Senator Redfield is exactly right. We shouldn't get

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tied into a situation, because I think that's what the public expects and that's what the public likes, is, well, we get to set your salary. Just like we get to set the Governor's salary, we get to set the judges' salaries. Those are part of the process. Those are the checks and balances. So I believe that setting the number in statute, saying, this is what the number is going...or, in the constitution, this is what the number is going to be, is something that the public expects. When the voters go, they want to know what we think we're worth. Now, that is what the debate is going to be, until we come up to some resolution that can either get 30 votes to put it on the ballot, or, if Senator Schimek's idea is more appropriate, getting 40 to put it on the primary ballot. That's going to be our discussion. And it can't be devoid of what the public thinks. We can't say, oh, you know what, we're worth what Lancaster County commissioners are worth, 32 grand, plus benefits. They're not going to vote for that. They flat-out are not going to vote for that. And the constituents that contact me, that say, well, you guys aren't worth \$24,000, I bring up the question, I say, have you asked what your county commissioners make? An individual from Cheyenne County was complaining to me about that. Those individuals make \$16,500; the county chair makes \$17,682, plus full family healthcare, full family. Add another \$8,000-\$10,000 maybe on top of that. So we're not comparing apples and oranges, and we're not the same as a county board, and we're not the same as a city council position. But if you're from my neck of the woods and you have to travel six months down here, you bet, you're going to get some expenses, and they're going to cover your costs,...

SENATOR BAKER: One minute.

SENATOR ERDMAN: ...if that. So when we're comparing apples and apples, and I go home and I talk about what's fair, the general public gets it. The question is, they want to know if we get what they want us to put on the ballot. And that is a number. And that has been what's successful. And I think that's where this body should gauge, because of previous success. I think that's where we needed to head. Whether Senator Schimek is right, whether it's \$24,000 or not, I was there in the committee, I was there with the bill on General File, I think

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it's appropriate to ask. But I think we should ask for what we think the public is willing to do. And I think there's a general tendency from the public to be supportive. But I also think they expect us to be reasonable. And I would argue that if you look at some of the salaries that are before us in other offices, the public would not consider some of those reasonable, and they would consider ours to be less than that. And I think we have to find that balance. Thank you, Mr. President.

SENATOR BAKER: Thank you, Senator Erdman. Senator Stuthman next. You're recognized.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I am the member of the Legislature that has come directly from a county board position. I realize the amount of dollars that the county supervisors and commissioners are getting, what a gold mine they have in comparison to what we're getting down here. I left that position one morning and came down here, going from taking home \$880 a month, plus insurance, to coming down here, with my check was \$218 a month. You know, \$218 a month doesn't pay very much when you're down here all month long. I think people really don't realize, you know, what your local elected officials are getting, your commissioners, your supervisors, what they're earning, and who sets their salary. They set their own salary. Yes, they're reasonable. They take into consideration a lot of things. I don't think it's really out of line. But I'm trying to compare the workload of a county position, which, Senator...one of the senators that just spoke, I think it was Senator Erdman, the total amount of dollars that is paid in the state, \$5.5 million a year for local county commissioners and supervisors. The workload of those individuals, the majority of the board, you know, just has their regular meetings twice a month. Usually a half a day, some a whole day, but not very many of them. When you're chairman of the board, you get paid the same. But that is a greater workload. That is why I'm trying to compare, you know. They set their salary. In my local county, it was \$12,000 a year. I came down here for \$12,000 a year with no benefits, no benefits, no retirement, no nothing. That was it. And the thing that really concerns me is, I would like to see that there are people that could serve in this Legislature that would be, you know,

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the blue-collar worker, the people that are in the trenches working. They can't come down here. I've always said, the only ones that can serve in the Legislature are independent people, semi-retired people, or filthy rich people. That's what I think is what can be down here. And you will see a lot of them here are elderly, independent ones. We do have some very young, attractive ones, also. (Laughter) But I think that's the thing that I'm really trying to convey to the people is, you know, maybe \$24,000 is okay. I think that would be realistic. It would be practical. But I think if we put it out there too much, we won't get anything. I did put in my weekly newspaper articles, you know, to try to get input from my local people. I had several people call and tell me that we shouldn't be doing it for the money. Well, you know, we do have to survive down here, too. We're taken away from our businesses. We're taken away from our jobs that we have to do to support, you know, so that we can be down here. I'm a full-time farmer. You know, my business has to keep going. Yes, it's with the family, and I'm very proud of it. But yet, it does suffer while I'm down here. So I think we need to be very practical, as to what amount we put out there for it, and realistic.

SENATOR BAKER: One minute.

SENATOR STUTHMAN: Twelve thousand dollars, to me, is not a realistic figure. The difference here is, we have to ask the public. If the county board of supervisors would have to put on the ballot that they want to increase their wages \$5,000 or \$1,000, do you think that would ever pass? No, it wouldn't, absolutely not, because most generally you think that what they're doing is not right. But they are really trying to help the communities, and really concerned about your tax dollars. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Stuthman. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the Legislature. I would certainly echo the thoughts that Senator Stuthman and Senator Erdman have brought forward so far. I

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myself feel like that...put a number out there and let the folks vote it, either vote it up or down. They're the one that set our wages. I think when it's only been renewed about...or, raised every 15 years, or however the number are, or closer to 20, whatever the number is, I'm not quite sure. But put our number out there, and it will probably be another 15 years or so before anything is done again. I don't think that this type of office that we're in should be tied to any kind of what some other county officers receive. I don't think we really need to have the COLAs mixed in there. I think put a hard number on there and vote it up or down. I have no problem with the \$24,000, because that number will probably be there for several years before anyone brings it up again to change it again. It's...it isn't something that was any concern when I came down here. It wasn't the question about whether or not I was going to make any money at it. We came down here to do a job that we thought needed to be done, and to represent the district that we were voted in from. So I really think that we need to be paid what we're probably worth. I think everyone is at least worth what we will ask. And I'm not a bit ashamed to ask for the \$24,000, and believe that that's probably a correct figure to start with. Because it will be several years before anything is changed on that line again, if we go according to the track record that's been done so far. I have no problem with going that route. And as Senator Erdman has said, the county officials and different officials certainly get a higher salary than what we do. In fact, usually, all of us, in our offices, we're probably the lowest-paid person in our office. So I have no problem with it. I certainly will vote for any kind of an amendment that comes across with the \$24,000. If Senator Schimek thinking of \$21,000, or you're thinking of these other figures, that's fine, too. But I really think it needs to be a nice, crisp, round figure. And rather than worry about increments at a time, I think, ask for what we think we're worth, let it go at that. The folks can vote it up or down. As I always used to say, years ago when fellows come through looking for jobs, they always said, I was looking for a job when I found this one. So I suppose we can always get by, however we do it. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Louden. On with

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discussion of AM0998. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I think most people, frankly, don't even know how much we make. I think that we are confused with Congress. And I think a lot of people, frankly...you know, you get correspondence. Somebody, dear Senator, why did you do this bill about something involving international affairs? And they think that we are making a lot of money, and we're not. One of the things that I think was adequately mentioned earlier, the problem that we have is that, as a legislator, we have to put up our salary and say, what do you think? And if any of the, you know, school administrators, county commissioners, anybody, if they had to have public vote on whatever they did in way of salary, it would probably be voted down. And why is this? Partly, there are very few things that the public can vote on. They can be frustrated with Congress doing some silly act, but they have no voice in what a congressman earns or what a senator earns in the United States government. But as far as the state is concerned, it's in our constitution. We're probably the only one that the people have an opportunity to vote on. Why do school bond issues have a problem? And that's because of the frustration that people have. And the only thing that they get to vote on, probably, is the school bond issue. So they generally have a very hard time doing that. They just turn it down. So I think that what we're talking about now is respect for the office, not what we need to make a living. I don't think that's even the issue. And that was mentioned when we talked about constitutional salaries. I think that's the most important thing. I can remember when I first started practicing law, everybody who was a banker or a loan person felt like they had to drive an old car so that people didn't think they were making any money. And that changed. It changed to where the people who are in those responsible positions now drive appropriately good cars. And people look at them with respect. And it's just a perception thing. And I think that we need to say at some point, let's just go ahead and vote on this. Let's go ahead and have respect for the office and determine that we need to go forward with something that...not because of what we need, but because of what is appropriate for the office itself. I think that we as a Legislature owe that responsibility to

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succeeding legislators. I'm frustrated sometimes by the fact that it's reported so often that we are voting on a salary increase for ourselves. I would point out to you that many of us who are very enthusiastic about changing the salary for legislators aren't even going to be here in office. About half of us are leaving next...at the end of next year. And yet, we're concerned about the integrity of the Legislature, we're concerned about respect that people have for the Legislature. I think that a Legislature oftentimes doesn't have the respect of the public. It's one of the few things that they have a voice in, is voting on things like salaries of legislators. But why don't they care that much for what we do? I think there are two reasons why people are frustrated with legislators. One of them is, we vote to do something to restrict somebody's activity in some fashion, and they don't like that. And then also, we vote at some point to increase people's taxes. And so those two things seem to be...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...the key that people have as to why they don't care for legislators generally. They like their individual legislator because they know them. But generally, they say, why are they--kind of a generic thing--why are they doing this or that? And I think that we owe it to, not ourselves, because many of us, myself included, will not be here at the end of next year, but I think we owe it for responsibility to determine that we have respect for the office. And it's not what we need to live on. It's what is appropriate for the salary for legislators doing the business of the state. I once talked to a group, and I said, would you trust somebody to be in charge of a \$6.1 billion budget, and pay them \$5.75 an hour? I mean, that's just ludicrous. And it's what happens. Because I looked at my...

SENATOR CUDABACK: Time, Senator Pederson.

SENATOR D. PEDERSON: ...paycheck, and that's what it was. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator

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Aguilar, on the Redfield amendment.

SENATOR AGUILAR: Thank you, Mr. President and members. When I come to the Legislature, the Lincoln Journal-Star gave me the designation, the blue-collar senator. Well, in six years, the reality of that designation hasn't changed much. And a lot of it is because of what we earn. I, for one, you know, really respect what Senator Schimek is trying to do. And I don't think \$24,000 is too much to ask for. I think we earn that. I don't think there's anything wrong in asking for what you earn. We probably earn a lot more than that. I know I do that much work, and I know I can go home to my constituents and not be embarrassed to say I'm asking to double my salary. That seems to be a big concern, that we're asking to double our salaries. I would remind the body that the last time we asked for a raise, it went from \$400 to \$1,000 a month. That's more than doubling. So the reality is, the constituency believes you're doing the right job, and you're putting forth the effort. There's no reason why they shouldn't agree to what we ask for. I think what we should ask for should be a specific number. I think there's nothing wrong with \$24,000. There's many people in the Legislature like myself, who wouldn't be here if we weren't first appointed, because there's no way we can afford a grass-roots campaign that it takes, the money that it takes to spend, to get to the Legislature. The campaign experience is very expensive. We all know that. But if you get appointed first, it makes it a little easier, because then you have the opportunity to come down here and prove yourself. Once you've proven yourself, it's a little easier to get support from your constituency, a lot easier. Like I said, many people wouldn't be here without being appointed. Many people don't need to be concerned about term limits, because the simple fact of the matter, at \$12,000 a year, you probably can't afford to stay here that long. And I have a lot of respect for the professional people in this body, but I don't think we ever want to become a Legislature of all professional people. We need to be a Legislature of the people, all the people, the working class as well. I'm concerned what's going to happen down the road after term limits and we can't attract good people, qualified people to come down here and work. Twenty-four thousand is not a big enticement, but it's a lot better than

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twelve. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Aguilar. Senator Redfield, there are no further lights on. You're recognized to close or speak.

SENATOR REDFIELD: I will be closing. Thank you,...

SENATOR CUDABACK: Thank you.

SENATOR REDFIELD: ...Senator Cudaback. Members of the body, I'm going to take issue. Senator Engel said that the public really wants us to be citizen legislators and they want us to work in other places. And yet, we are continually criticized for conflicts of interest. And it is very, very difficult to function down here if you're not a grocer or an attorney or a farmer or a rancher, or you work for a telecommunications company, or for a charity, or some other entity in order to supplement your salary down here. And yet, you're continually criticized because you...they feel that your vote may be compromised because of what you do in the rest of your life. So I don't think that we have a real perfect fit here in the amendment. I will tell you that the amendment says that the salary could not exceed the annual salary. In other words, with this amendment, the salary could be \$1. It does not say in the amendment that it would be \$32,023. It said it would not exceed that. So it could be any number up to that. The whole point of the amendment is to say that we have elected officials in this state that serve the people, and they go home every night, and they sleep in their own bed, and they see their own families, and they see their neighbors, and they are able to go to work and carry on their other profession. The Legislature does not allow that. We spend six months here in the Capitol, and we spend 14-hour days serving the people of Nebraska. And I think that we need to recognize that. So I'm glad we've had the discussion. I thank you for participating. And with that, Senator Cudaback, I would like to withdraw the amendment.

SENATOR CUDABACK: The amendment is withdrawn. Mr. Clerk, items for the record, please.

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CLERK: Mr. President, thank you. I have amendments to be printed: Senator Schrock to LB 548, and Senator Connealy to LB 71. Enrollment and Review reports LB 332 and LB 332A to Select File; and Enrollment Review reports LB 126, LB 348, LB 348A as correctly engrossed. That's all that I had, Mr. President. (Legislative Journal pages 1718-1725.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Mr. Clerk, next motion, please.

CLERK: Mr. President, Senator Redfield, AM1016.

SENATOR CUDABACK: Senator Redfield, to open on AM1016.

SENATOR REDFIELD: Please withdraw.

SENATOR CUDABACK: It is withdrawn. Mr. Clerk.

CLERK: Senator Redfield, AM1024.

SENATOR CUDABACK: Recognized to open AM1024 to LR...

SENATOR REDFIELD: Please withdraw.

SENATOR CUDABACK: It is withdrawn also.

CLERK: Senator Schimek, AM0899.

SENATOR CUDABACK: Senator Schimek, to open on AM0899.

SENATOR SCHIMEK: Yes. Mr. President, Mr. Clerk, I would like to substitute AM1703 for AM0899, please. (Legislative Journal page 1725.)

SENATOR CUDABACK: Any objection to substitution? Seeing none, so ordered.

SENATOR SCHIMEK: Thank you. Mr. President, members, this is the amendment that I was referencing earlier, that was signed by both myself and Senator Stuhr and Senator Flood, who helped with the...I mean Friend, I'm sorry, who helped with the Stuhr

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amendment yesterday. And it does just one thing. It strikes \$18,000 and inserts \$21,000. It retains the CPI. Now, I got into my office this morning, and the first thing that I was handed was an e-mail from a constituent who says: I was very disappointed to see the \$18,000 amendment yesterday...or, today, he says. I have to admit that I do not know yet what the majority of the voters believe, but I strongly believe that \$24,000 was a minimum to which the salary should be lifted. Most of you do much more than the \$12,000 you are paid entitles us to. With term limit problems on the horizon, we need to do all that we can to attract quality candidates. And without a hefty increase, I do not believe enough good men and women can be drawn into candidacy. I won't go on with the rest of it, which is kind of flattering, incidentally. Maybe I should read it. But it made me start thinking anew about what we had done yesterday. I believed yesterday that \$18,000 was too low. And I had my staff prepare a little chart for you which shows legislative salaries adjusted for inflation. And according to the inflation calculator, what \$12,000 bought in '88 would be...and it doesn't say that in here; it should have. But it would be around \$19,400-and-some in 2005. Well, I went ahead and projected out to the year 2007, which is when anything that we did would take effect. I did it at the 4 percent inflation and at the 3 percent inflation. And you can see, in 2007 it's either \$21,000 or \$20,657, which is certainly above the cost of inflation. In fact, right now, we are below the cost of inflation as compared to the '88 salary increase at \$12,000. If you project it on out to 2009, which is the very soonest date that anything could change, you get almost \$23,000 at the 4 percent inflation rate, and almost \$22,000 at the 3 percent inflation rate. That is why I really firmly believe that \$18,000 is not sufficient. It does not keep up with inflation at all. And that's assuming that the \$12,000 was the right figure 17 years ago. It may or may not have been. But Senator Stuhr and I thought that we would offer this as a compromise, let's say, between the \$24,000 and the \$18,000 in her amendment, and see what you thought. Now, I have an amendment ready to go, should this one fail, that would take us simply back to the original bill, which would be at \$24,000. Either way that we go on this, I can live with it. I think either one is good. But I happen...tend to think that the CPI factor we ought to think

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about carefully. What you're going to be asked to do pretty soon is vote on this amendment. And keep in mind that we're ultimately going to need 30 votes, if not 40. And I have an amendment coming up shortly that will say we're going to put this on the primary ballot. With that, I...Senator Stuhr I know will have some words to say about this. And then we're going to leave it in your hands. And with that, I thank you very much.

SENATOR CUDABACK: Thank you, Senator Schimek. You've heard the opening on AM1703. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President and members of the body. I thank everyone for their discussion on this issue. I think we are talking about fairness. I don't believe that our salary should be higher than the average in the state. But I think what we are talking about is being reasonable. We are talking about being fair. And I believe, as Senator Pederson said, we are talking about the respect for the office. I wanted to...yesterday, I was trying to poll each of you, because I know that the amendment was what you call a weak 25 votes. And so I did some polling. And actually, the majority still voted for the CPI. But there were...the majority were with the \$18,000, but there were also some of those that wanted to go with the higher \$24,000. And so that is why we are offering this compromise at \$21,000. I wanted to speak just a little bit about the CPI. Because I handed you out yesterday a review of the last 20 years. I'm not sure why we are so afraid. We have capped the CPI so that it cannot exceed 4 percent. Let me tell you, 20 years ago, and prior to that, we were seeing consumer price indexes in the 15 percent, and even as high as 20. But in the last 20 years, we have had only 4 years that have exceeded 4 percent. And we are capping that, so the salaries could not exceed that 4 percent, looking back in the last 20 years. So I think we are looking at something that is reasonable. Senator Erdman said, voters really want a check and a balance. But when you don't have a salary increase in 18 years, I ask you, where is the check and where is the balance? I don't see that. Also, I believe that the members of the Legislature, so to speak, are to blame for this, in the fact that we could never...I know that salary increases have been proposed. But we as a body, because every election we have half of the body running for reelection.

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As I was doing some polling yesterday, and just some surveying, people said, I'm not voting on this because I'm up for reelection next year. So that's the dilemma that we are in. And that is one of the reasons that we did bring forth the consumer price index, was just to give you a choice. I do believe that people understand it. It is...we are not being unreasonable. It would be something that we would have to sell. But I'm hoping that we will look at this again. I believe that there should be respect. I'm wondering if voters themselves...someone said that they don't really understand what our salary is. I do believe that I think most of them believe that we do receive benefits, which we do not. And that has been stated. And we're not actually going to discuss that, because I think that's probably more controversial. With that, I hope that a few people will at least speak on this amendment. And I'm just hoping that we can go forward this morning in whatever decision that we make. Thank you, Mr. President. And I'll turn the time back to the Chair. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Kruse, on the Schimek amendment.

SENATOR KRUSE: Mr. President and members, thank you. I like it. (Laugh) Like most of us around here, we're trying to figure out what's appropriate in this thing. And I like the \$21,000 as something that's not going to scare somebody. But especially that it relates to the CPI since the last one. I...that gives a good rationale for the figure that is selected. I like that it is a stated figure. Some...several have said there needs to be a figure in the amendment. There it is. It's \$21,000, if we choose to go this way. I like the CPI. I don't think that's going to scare people off. We deal with CPI quite often. It would not be as scary as average salaries and other things like that. So I think that, from my mind, we're all trying to share in this; my own mind, this is a winning plan. I would add to the comments that have been made about the nature of this job. And we need to share with each other on that. I have an additional thought on whether it's a full-time job. My first two years down here, I kept a daily log of the time spent on the job. And each of the first two years, it was 2,000 hours, which is our definition of a full-time job--40 hours a

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week. I was surprised that the second year, which was a short session, was still 2,000 hours. So by the definition of my time, it clearly was, and is, a full-time job. I realize various persons can do a different style of working in a job, but that's the case with every kind of a job. This is a job that requires our full time. And certainly, there's a lot more that I should be doing, especially in reading and studying, that I do not have the time to do. I thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kruse. Further discussion on AM1703? Senator Schimek, there are no lights on. I will recognize you to close on AM1703 to LR 12CA.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. I think we've had a lot of time to discuss this. I think there's still a variety of opinions. But what this amendment does is sets that salary base at \$21,000, which was a compromise between Senator Stuhr and myself. Senator Stuhr did a lot of work on going around and trying to find out what people would accept or not. The kicker on this, of course, is the CPI index. If you think that's something we should do, then you do want to support this. If you don't think it's something that you want to do, then you need to support an amendment that would be filed, in case this doesn't make it, that would be without the CPI and would take us to \$24,000. With that, Mr. President, I would ask for adoption of the Schimek amendment.

SENATOR CUDABACK: You've heard the closing on AM1703 to LR 12CA. All in favor, ...Senator Schimek, what purpose...?

SENATOR SCHIMEK: Yes, thank you. Could we call the house, please?

SENATOR CUDABACK: Been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized

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personnel please leave the floor. Unexcused senators report to the Chamber. The house is under call. Senator Dwite Pedersen. Thank you. Senator Langemeier, please check in. Senator Redfield, Senator Schrock, Senator Burling. Thank you. Senator Baker, Senator Friend, Senator Bourne. Senator Friend, the house is under call. Senator Bourne. Senator Bourne. Senator Bourne, please report to the Chamber. The house is under call. Senator Bourne is present. Everyone present or accounted for, the question before the body is, shall LB...or, AM1703 be adopted? All in favor vote aye; opposed, nay. We're voting on adoption of the Schimek amendment, AM1703, to LR 12CA. Have you all voted on the question who care to? Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 5 nays, Mr. President, on the adoption of the amendment.

SENATOR CUDABACK: The amendment has been adopted. I do raise the call.

CLERK: Senator Stuhr, AM1542.

SENATOR CUDABACK: Senator Stuhr, AM1542.

SENATOR STUHR: I would like to withdraw that, please.

SENATOR CUDABACK: AM1542 is withdrawn. Mr. Clerk.

CLERK: Next amendment, Mr. President, Senator Stuhr, AM1541. I have a similar note you want to withdraw, Senator?

SENATOR STUHR: Yes, Mr. President, I would like to request to withdraw that, please.

SENATOR CUDABACK: It is withdrawn.

CLERK: Senator Jensen, AM1050. Mr. President, Senator Jensen is excused. I do have a note that he would...that he...on...he wished to withdraw.

SENATOR CUDABACK: It is withdrawn.

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CLERK: Senator Beutler, AM1305.

SENATOR BEUTLER: I'd withdraw that, Mr. Clerk.

SENATOR CUDABACK: It is withdrawn.

CLERK: Senator Beutler, AM1702.

SENATOR CUDABACK: (Visitors introduced.) Senator Beutler, to open on AM1702.

SENATOR BEUTLER: Senator Cudaback, I wish to withdraw that and refile it at the end of General...at the end of Select File amendments.

SENATOR CUDABACK: So ordered.

CLERK: Senator Schimek, AM0899. (Legislative Journal page 1324.)

SENATOR CUDABACK: Senator Schimek, on AM0899.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. And thank you all for the short discussion on the last amendment. I think that's important. I think it's important to move this bill today and get on to some other issues that we have hanging out there. I'd like to thank Senator Stuhr for her work on that compromise. I meant to press my green before the lights all went off. I will be supporting it on Final Reading, even though I think I preferred the \$24,000. I'm sure that Senator Stuhr and I are going to be around working all of you for that Final Reading vote. And we hope that everybody will support the compromise that has just been adopted, and that we will be able to garner the votes. Now, this amendment that's before you now simply provides for a primary ballot on the issue. And I would ask you to accept this amendment, and knowing that it will take 40 votes on Final Reading to put it on the primary ballot. And of course, if that fails and we're only able to get 30-some votes, then that would have to go on the general election ballot. But we need this amendment to make it

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possible to go on the primary ballot. And I would just ask that the body adopt it. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. You heard the opening on AM0899. Open for discussion on that motion. Senator Schimek, there are no lights on. Senator Schimek waives closing. The question before the body is adoption of AM0899. All in favor vote aye; all opposed vote nay. Voting on adoption of the Schimek amendment, AM0899, which is an amendment to LR 12CA. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 26 ayes, 2 nays, Mr. President, on the adoption of Senator Schimek's amendment.

SENATOR CUDABACK: The amendment is adopted.

CLERK: Mr. President, Senator Beutler, AM1702. (Legislative Journal pages 1725-1729.)

SENATOR CUDABACK: Senator Beutler, to open on AM1702 to LR 12CA.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, what we've done so far I support. But I hope that's not all we want to do. And so I'm offering you a supplement to what is in the bill so far, not a replacement for what is in the bill so far. I have felt for a very long time that one of the great defects of the system that we have is the legislative pay, and that that defect really, I think it's clear to everybody, is not going to be resolved in any meaningful way until the matter of salaries is taken out of the constitution. And immediately, when one says that, everybody reacts, well, the people don't want to take it out of the constitution. They're never going to take it out of the constitution. But in most states in this Union, at one time or another, sooner or later, they've taken it out of the constitution if the Legislature as an institution will continually support and put before the people that which is the right thing to do. And I think that each and every one of you understand that the right thing to do is to get it out of the constitution. The way that most states have taken it out of

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the constitution is the idea of a commission, a commission that has a broad representation, that decides what the salary of the legislators will be. The history of that particular idea in Nebraska I set out for you on this little sheet that's been passed around to you. In 1970, it failed miserably. In 1980, 56 percent of the people voted against it. But that was a huge improvement from when the idea was first put forth in 1970. Since 1980, 25 years now, we have not made an effort to take this matter out of the constitution. And that, in my opinion, is a great failure on our part, not to do that which we know would strengthen the institution. So what I am proposing to you is a variation of the commission idea. It has an element dealing with ethics mixed in with it. Because I think that that particular element may have enough appeal to the people to switch over that 6 percent that needs to switch from one side to the other. If we can figure out a way to get 6 percent of the people to change on this matter, we can get a permanent solution to the problem. So this...and let me emphasize again that, with term limits, the importance of making this change in the constitution is greater than ever. Because we are now expecting senators to reach a level of experience and knowledge in a shorter period of time. And the only way they can do that is to put in more time. And the only way they can put in more time is to pay them for putting in more time. So with the advent of term limits, and if we only...and if we are content to let the salary matter go along at basically the same purchasing power that it's always been, then in fact we are not holding ground; we are losing ground. Because those senators who are expected to learn everything in eight years are simply not going to be able to increase the time put in on the job to do that, even with the salary increase that has been proposed today. So I'm hoping that you have the patience and the interest to explore the possibility of adding a commission idea to what is before you now. The way it would work is basically this. If on Final Reading you elect to put what is in the bill now to a special election next year, then the commission idea will go on the ballot in the general election of next year. If, on the other hand, you decide to put the idea that's presently in the bill, the \$21,000, on the general election next year, then the commission idea would go on the general election in the year 2008. So that this presents you with the opportunity of

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both requesting, in the short term, the dollar amount increase, without the commission idea getting in the way of it, but at the same time putting on the ballot, eventually, that which should be, and is, I think, the real solution to the problem. I mentioned to you that this idea mixes the idea of ethics and the idea of salary. I think that is a natural combination, because these are two things that are very sensitive to people, and these are two things that generally people think the Legislature does not do well at when it has them in their own hands. So what this idea says is basically this. The commission that we establish will have two jobs. The first job will be to fashion...working with the Legislature, fashion a code of ethics for the Legislature. Then, when the code of ethics...if the code of ethics is adopted...the Legislature doesn't have to adopt the code of ethics, but if the code of ethics is adopted, then the Legislature has to hold that code in place for three years, after which time it's free to modify the code of ethics. After the code of ethics is put into place, then the commission's second job is to start setting the salary for the Legislature. And every fourth year, it would recommend again to the Legislature a salary adjustment, and the Legislature wouldn't have to go up to that recommendation, but it could not go over that recommendation. So this is the concept. Again, not getting in the way of what you've done, but suggesting to you that we haven't addressed the real problem, and hoping that you will have the patience and time to look at a real solution to the problem. With that, I would recommend this addition to the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on AM1702, offered by Senator Beutler to LR 12CA. Open for discussion on that motion. Senator Foley.

SENATOR FOLEY: Thank you, Mr. President, members. I'm going to support Senator Beutler's amendment. I appreciate his work on this question. I voted for the \$21,000 amendment. I don't think that solves our problem at all. I think the problem that we ought to be focusing on is, what is the level of compensation that we need to offer in order to attract the best and the brightest citizens of our state and entice them to step forward and want to serve in this capacity? Twelve thousand dollars I

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don't think does it. I think it's way behind the times. Twenty-one thousand is a better number, obviously, but I still don't think that solves the problem. Most people in this state cannot afford to serve in this office. And that's very unfortunate, because there are many, many fine people out there who probably would like to serve. They simply can't do it. They can't do it and support their families at the same time. Senator Beutler made all the points I would have made about term limits and so forth. But in the final analysis, we've got to take this issue out of the political process and turn it over to a commission--people who are looking out for the best interests of the state, who can develop a fair compensation mechanism to attract the best people to step forward and serve in the State Legislature. So I thank Senator Beutler for his work, and I urge you to vote for his amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. On with discussion. Senator Schimek, followed by Senator Beutler and others. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President, members. I'm really torn on this amendment, because I, in concept, like what Senator Beutler is trying to do. This basically was a bill that was introduced this year that went to the Executive Board, and the Executive Board did not advance it from committee. And I think this is essentially the same bill, Senator Beutler. My thinking on this, I guess, is that if we want to do this, we still have time next year to have a bill introduced and to put it on the general election ballot. If we want to do this today, I don't know if people are going to have enough time to have really thought it through. And in addition to that, the amendment itself is going to have to be changed, because of the fact that we just adopted the compromise amendment. And this says \$24,000. So I think that it will definitely slow down the process. But having said all that, I like Senator Beutler's idea in some ways. I think...I just don't think this is the time and the place to advance it. And I would ask that you not support the Beutler amendment.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Smith, followed by Senator Wehrbein.

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SENATOR SMITH: Thank you, Mr. President, members. I rise in support of the Beutler amendment. I believe that we need a systematic, more objective approach in the broader issues that I believe this amendment addresses. It's bothered me for quite some time that there are various groups that proclaim to be above reproach in terms of ethics. And because we don't have, I believe, a more systematic approach to the issue, by default these outside groups are termed to be the know-all on legislative ethics. I've seen the shots that they've taken at members of this body. I think it's unfair. I think it's unreasonable. And that's why I support Senator Beutler's objective and the intent behind AM1702. I haven't always thought that. But the more I see the disjointed outside efforts of finger-pointing, I think that this is a better approach. And I appreciate Senator Beutler's efforts in this direction. And I hope that you'll join me in supporting the amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the body, I'm going to oppose at this time. Maybe I'll change my mind over time, Senator Beutler. It is kind of...hitting me kind of cold. I actually didn't realize it was in the Exec Board. But I don't know that we have an ethics problem. Now, Senator Smith puts a little different spin on it. Maybe outside influences are making a difference. I have not felt in the 20 years here, 19 years, that we've had an ethics problem within the body. Now, it does bother me sometimes that we are defined outside as having a problem. And it bothers me even more because many times it's just one person whose standards we don't meet and has a comment. They get a lot of publicity. To my knowledge, there's not resolutions in that particular organization. There's not standards set that all of us would be able to look at, or the public could look at. But when there's an ethics issue raised, quote, there's...seems like there's one person responding. That's not a personal shot at all. But it seems like that it meets the standards. I think there might be 49 different standards in here sometimes in the things that we do. Each one of us has our own set. We try to do the best that we

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can, but whether all 48 of us would agree with that one at a time, I'm not sure. If that's what is behind Senator Beutler's thought, that we would have our standards here that would be defined in here by a commission that we'd adopt, perhaps I would be listening to more discussion on that, if that's the purpose. I didn't recognize that as a purpose it was introduced. I did not know what you testified in the committee hearing, Senator Beutler. By the same token, I'm also not willing to go outside the constitution at this point. I would say that we have what we call a populist constitution in this state, when it was drafted over 100 years ago. I still sense that the people of Nebraska want the kind of constitution we have, and they want control of what our salaries should be. Whether that's right or wrong, that's what they feel. I think going to a commission for outside setting has not worked...has not been accepted in the past when it's brought up. I, myself, am not willing to go there at this point. I'm going to be cautious here. I don't want to be taking shots at other organizations that have been setting their salaries. But I think it's serious. And I think, you know, to serve in here, you should have somewhat of a passion. And when you lose that passion, you lose your effectiveness. And I think that should be part to want to serve in government. And maybe that's altruistic for too many people. I'm not sure. I know not everyone agrees with that. But when we're here, we're here to serve our fellow man, to do the best we can, to set laws in reflection of a society at the time. We're here to serve our thoughts and our judgment, not necessarily to directly reflect what our constituents think, but what we think is the best way that government should move forward. And so I don't know that the most intelligent people, quote, in the world will be the best representatives in a democracy, or whether it's those that are intense, focused, serious, studious and, yes, intelligent, too. But simply saying the case that more salary will bring in higher-minded, more intelligent, sharper individuals, I'm not sure is necessarily true. If I can philosophize a minute, it isn't always the high school graduates that graduate at the top of the class that make the biggest mark in the world. So I think there's some philosophical things that could probably be fleshed out in more time here than we're doing today. And so at this point, I would oppose Senator Beutler's proposal. Thank you.

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SENATOR CUDABACK: Thank you, Senator Wehrbein. On with discussion of the Beutler amendment. Senator Beutler, followed by Senator Schimek. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I think Senator Schimek had a...had the impression that this particular amendment struck everything that we've put into the bill so far. And I want to reiterate that it does not; that everything that you put in the bill so far stays in place. And if it appears on the spring ballot, what I'm suggesting will appear on the fall ballot. And if it appears on the fall ballot because there are not 40 votes to put it on the spring ballot, then, in that case, this proposition will appear at the following general election; not the same general election, but the following general election. As far as ethics are concerned, I am not one that would ever assert that this place is second to any in terms of top quality ethics. I think we do, and over the years we've done extremely well in Nebraska in terms of ethics. But there is always the underlying suspicion in a democracy that our ethics are not what they should be, that they need to be watched constantly, that nowhere else is the salvation of the state in the watchfulness of the citizen more appropriate. And there's probably, in a general sense, a lot of truth to that. This is the body that needs to be sure it has its ethics in order. But in order for this amendment to be valid, it doesn't have to be true that the ethics of this place are bad. They're not bad. But that doesn't mean that the people wouldn't be that much more reassured if they didn't have an outside group kind of looking in and making suggestions and recommendations to us. It is, I think, a healthy interplay that would exist between this kind of commission and the legislative body. So I don't argue that we need this on the basis of our poor ethics. I just don't think that's true. But I think that it could be helpful and reassuring to people to know that we're willing to let a constitutionally constituted group look at our ethics. And part of the bargain with the people here is simply that. We open up the constitution to a commission group to look at our ethics and, in return, you the people allow this commission to also look at our pay. It is not trickery. It is not anything other than a bargain that makes sense, that makes perfect sense. The

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only argument I've heard against it so far is that this is not the time and the place. But it's been a quarter century since we've attacked the real problem, the problem that the pay is in the constitution. If now is not the time, when is the time? If we don't continually build on the education process, if we aren't continually in contact with people on the inadequacy of the system, of the basic system, we will never win. It has to be a General Patton kind of approach, presenting to people again, and again, and again, until more understand why this is a pathetic, inadequate system. Pathetic. I'm astounded that we are able...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...to look at ourselves in such a way that we put up with such a pathetic system. Not the time, not the place? If this is not the place to change things, where is it? This is the place. This is the Legislature. This is the group of people that is supposed to be advising the people of the state as to what truly makes sense. Will we get more intelligent people here? Maybe; maybe not. But with term limits coming, you need to have people using their intelligence by putting in more time. They've got to put in more time to have the same level of experience on issues as we have now. They've got to put in a lot more time.

SENATOR CUDABACK: Time, Senator.

SENATOR BEUTLER: They're not going to do it on the miserable pay schedule we have.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion of the Beutler amendment. Senator Schimek.

SENATOR SCHIMEK: Yes. Thank you, Mr. President and members. First of all, I do need to correct the record, because I grabbed the wrong amendment a few minutes ago, and indicated that the \$12,000 figure was in here and that that would have to be changed. Senator Beutler is correct. His second amendment, which is the one we're discussing, doesn't touch what we just did at all. It just adds provisions. So that wouldn't be a

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problem. The problem, as I see it, without really getting into the amendment itself, is, there...it does confuse the issue, vote-wise, for us. I don't think this is the time to do it. Because if we put this on here, there may be some people who will not be able to support the bill because they don't think that we should do this. And I don't think it brings votes to the bill, is what I'm saying. And I think this was a bill that's still in committee. The committee could put it out tomorrow. We could take it up next year at the beginning of the session, and we could deal with it separately. I think it's a separate issue, and it needs to be dealt with separately. There's plenty of time in next year's session to put this on the general election ballot. And so again, I would ask you not to support the Beutler amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Schimek. Senator Beutler, there are no further lights on. I recognize you to close on AM1702 to LR 12CA.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, I must admit I feel a bit of confusion. My sense of the matter is that your lack of questions into the detail of the amendment indicates that there is not a general interest in dealing with that at this particular point in time. On the other hand, I don't know that to be the case, since a couple of people were supportive. So I think I will let it go to a vote, and again encourage you to do what I'm absolutely certain every one of you believes in your mind is true, that this has to come out of the constitution someday if we're ever going to get this straight, if we're ever going to appropriately compensate people for what they should be doing down here, for the time they should be putting in, for the time that the people would want them to put in. So with that, I would emphasize again that this does nothing to what you already have in the bill. The pay raise proposition, at \$21,000 with the CPI, with this amendment, it would still go on the ballot in the spring. This one, the commission proposition that I'm putting to you, would not be on the same ballot. It would come on a subsequent ballot, so it would be entirely separate. There wouldn't even be any discussion of it until you approach that particular election cycle. So I think that we can have it both ways. We can do

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with the salary increase what we need to do in the short term. And we can take a shot at, and I think a very reasonable shot at, a very good shot at getting it out of the constitution. Twenty-five years ago, the same commission idea was defeated 56 percent to 44 percent. We need to change 6 percent of the vote. I think the ethics commission idea has a real chance of doing that. So I would encourage you to tack it on and give it a shot. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the closing on AM1702. The question before the body is, shall that amendment be adopted? All in favor vote aye; those opposed vote nay. The question before the body is the Beutler amendment, AM1702, which is an amendment to LR 12CA. On adoption of the Beutler amendment, have you all voted on the issue who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 13 ayes, 14 nays, Mr. President, on the amendment.

SENATOR CUDABACK: The amendment was not adopted.

CLERK: I have nothing further on the resolution, Mr. President.

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the advancement of LR 12CA to E & R for engrossing.

SENATOR CUDABACK: Heard the motion to advance. Any discussion? Senator Schimek.

SENATOR SCHIMEK: Yes. Could I have a machine vote on this, please?

SENATOR CUDABACK: You may. Question before the body is, shall LR 12CA advance to E & R Initial? All in favor vote aye; those opposed vote nay. We're voting on the advancement of LR 12CA. Have you all voted who care to? Have you all voted? Senator Schimek, are you rising for a purpose?

SENATOR SCHIMEK: Record vote, please.

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SENATOR CUDABACK: Been a request for a record vote. Record please, Mr. Clerk.

CLERK: (Record vote read, Legislative Journal pages 1729-1730.) 34 ayes, 0 nays, Mr. President, on the advancement of LR 12CA.

SENATOR CUDABACK: LR 12CA does advance. We now go to Select File, 2005 senator priority bills, Byars division. Mr. Clerk, LB 40.

CLERK: Senator Flood, I have Enrollment and Review amendments, first of all, Senator. (AM7089, Legislative Journal page 1327.)

SENATOR CUDABACK: Senator Flood, for a motion, please.

SENATOR FLOOD: Mr. President, I move the adoption of the E & R amendments to LB 40.

SENATOR CUDABACK: Heard the motion to adopt the E & R amendments to LB 40. All in favor say aye. Opposed, nay. They are adopted.

CLERK: Senator Beutler, AM1263.

SENATOR CUDABACK: Senator Beutler, to open on AM1263.

SENATOR BEUTLER: Senator Cudaback, I have two amendments on this bill, both of which I'll withdraw.

SENATOR CUDABACK: Are you asking for withdrawal? It is withdrawn. Mr. Clerk, next amendment, when you get time.

CLERK: Senator Chambers, FA183.

SENATOR CUDABACK: Senator Chambers, you're recognized to open.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the same intimidation that made Senator Beutler cower was applied to me, and I want to withdraw my two amendments also.

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SENATOR CUDABACK: FA183 and FA184 are withdrawn.

CLERK: Senator Redfield, AM1446.

SENATOR REDFIELD: Thank you,...

SENATOR CUDABACK: Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President. I must be a self-intimidator. I would ask to withdraw AM1666.

CLERK: Senator, did...I've got AM1446 in front of me.

SENATOR CUDABACK: AM14...

SENATOR REDFIELD: Thank you. I have the wrong number here.

SENATOR CUDABACK: It is withdrawn.

CLERK: Senator Redfield's AM1562. (Legislative Journal page 1504.)

SENATOR CUDABACK: Senator Redfield,...

SENATOR REDFIELD: Thank you.

SENATOR CUDABACK: ...you may...recognized to open.

SENATOR REDFIELD: Thank you. Members of the Legislature, Senator Chambers was very accurate in looking at the language in the current statutes. There is some question as to whether we're actually asking a piece of paper to pay a tax. This is a technical amendment. It corrects the grammatical construction, so it is clear that a piece of paper does not pay a tax. I would ask for your adoption. Thank you.

SENATOR CUDABACK: Heard the opening on AM1562 by Senator Redfield. Any discussion? Seeing no lights on, Senator Redfield. Senator Redfield waives closing. The question before the body is adoption of AM1562, by Senator Redfield. All in favor vote aye; opposed, nay. We're voting on the adoption of

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the Redfield amendment, AM1562. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of Senator Redfield's amendment.

SENATOR CUDABACK: AM1562 has been adopted.

CLERK: Senator Redfield, I now have AM1666. (Legislative Journal page 1678.)

SENATOR CUDABACK: Senator Redfield, on AM1666 to LB 40.

SENATOR REDFIELD: Thank you, Mr. President. I also want to thank the Clerk for catching that number error earlier. AM1666 addresses an issue that Senator Chambers brought up on General File. It talks about the distribution of the Affordable Housing Trust Funds. It does not impact the Behavioral Health Funds for rental assistance for those with serious mental illness. So I want to put your minds to rest. This is talking about the remainder of the fund, the Affordable Housing Trust Fund, specifically. And it would require that a minimum amount would go back to any community of 50,000 population. The amendment that I withdraw was actually recommended by DED, and they wanted to peg the amendment language to the Housing and Urban Development's language for community development block grants. Right now, Congress is talking about eliminating those grants or changing the definition. And so it was deemed more expeditious on our part to go back to the definition that currently exists in federal statute, which is, a community of 50,000 or more inhabitants, according to the most recent federal decennial census. The issue is this. Omaha area has been contributing to the Affordable Housing Trust Fund to the tune of 34.6 percent of the funds that are distributed across the state. And we have records that show that in 2003, Omaha received zero funds, not one project; and in 2004 were only approved one project, for a total of 5.8 percent. The needs are great. The inner city in north Omaha and south Omaha have significant housing needs. We have a large density of low-income people. And we are trying to protect that house stock and maintain its efficacy in the marketplace. So I am hopeful that you will accept the amendment

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that is before us. I believe it is fair. It is certainly not proportionate to the contribution of these urban areas. But I would ask for your acceptance. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. You've heard the opening on AM1666. Those wishing to speak, Senator Flood and Senator Smith. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President, members. This is not a good idea. This is wrong. And when I heard earlier this session, on LB 90, the discussion about all the rest of rural Nebraska fighting over a hot dog, well, that's exactly what we're doing. The Oscar Mayer wiener is on the floor, and we're scrapping like little rural groundhogs to find out how we're going to get our share of the pie. Uh-uh. This is not going to happen under my watch, if I have anything to say about it, because 50,000 people, that means Omaha, Lincoln, and Bellevue get their per capita share, while we have excellent programs up in my corner of the state, and we have to fight and scrap and be competitive for what we get. This is not a good amendment. Let's look at this in the big picture. Here's my analysis of why Omaha, Lincoln, and Bellevue come to the table today to get money earmarked specially for their communities. They do good work with the Affordable Housing Trust Fund in Omaha. Unfortunately, with the federal government shifting dollars into Homeland Security and away from federal grants that a community in one of these entitlement areas might have relied on the past few years, now they've got their eye on the Affordable Housing Trust Fund. And I don't say this because we're getting a big pile of money from the Affordable Housing Trust Fund in Madison County. In fact, if you look at the records, you'll see the city of Norfolk didn't get a dime last year. But we, too, are concerned about losing some of our federal money. So we're looking at the Affordable Housing Trust Fund and we're saying, we don't want to have to fight with somebody that's got an entitlement to get our fair share. The Affordable Housing Trust Fund helps the working poor. And they need it in Omaha as bad as they need it in Ord. They need it in Lincoln as bad as they need it in Chadron. I say, get rid of this. Let's be fair. Let's be competitive. Dollar for dollar, let's make sure people that want affordable housing to develop across the state put

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together a good program, not create a line-item budget source for the city of Omaha, who spreads out some of their money. This is wrong, and I am 100 percent against this. We need to stand up and say, Omaha, you should get your fair share. If you didn't get anything in 2003, well, then take it up with DED. But don't put the rest of the state on the mat to try and get what crumbs are left because the people in Omaha did not get enough. I am against this. I am for Omaha getting money and funding projects. But I do not think we need to single out three communities and say, this is a gift that you are entitled to. Regardless of your projects, regardless of what you've got going on, you can go to bed tonight and you can count on this much money. Now, what we earlier saw in LB 1446...or, in AM1446, was this idea, that has been withdrawn, in credit to Senator Redfield, that they'd get specific percentages. I've looked at what the city of Omaha has received since 1998, and it's been...and this is from the Affordable Housing Trust Fund, not federal funds. Since 1998, they've received \$4,504,000; city of Lincoln, \$2.5 million. Total awarded, \$35,154,000. So since 1998, Omaha has received 13 percent; city of Lincoln, 7 percent. Now, maybe that isn't representative of the population. And if that's the case, then we need to look at what we can do to spur more affordable housing growth in the city of Omaha. But I'm also aware that they qualify for federal funds the rest of the state doesn't. And as...in the big picture, we're all in this state together. And I have stood up here and defended projects that Omaha wants to do to be active and aggressive economic development, to look at the big picture. But when it comes to affordable housing, we have a duty and requirement statewide. And I...

SENATOR CUDABACK: One minute.

SENATOR FLOOD: ...appreciate Senator Synowiecki's support of the behavioral housing money...behavioral health money for housing and rental assistance. That's important. I've been a 100 percent supporter on this since I've seen it introduced. And I appreciate the work Senator Redfield and Senator Synowiecki have put together. But when it comes to money, when it comes to making a specific parcel of this entitlement available for cities like Omaha, Lincoln, and Bellevue, I have a

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big problem with that, and I think you should, too. Let's make this fair. Let's make it competitive, get out on the street and put something together that we can help the working poor get a leg up by giving them a house. But not by making sure three different areas of this state have a rock-solid opportunity to walk away with the money, regardless of what kind of competitive process they have inside their own community. I believe in being fair, not to just three communities. Thank you.

SENATOR CUDABACK: Thank you, Senator Flood. Further discussion on the Redfield amendment? Senator Smith, followed by Senator Landis and others.

SENATOR SMITH: Thank you, Mr. President and members. I feel like saying ditto and sitting down. But those who know me know I can't quite do that. Would Senator Redfield yield to a question?

SENATOR CUDABACK: Senator Redfield, would you yield?

SENATOR REDFIELD: Yes, I would.

SENATOR SMITH: Senator Redfield, I'm looking at this amendment and I see the term "entitlement area." Is that a phrase unique to this certain policy?

SENATOR REDFIELD: We were using...going back to the definition that currently exists under federal law. And this is how they define the Community Development Block Grant.

SENATOR SMITH: Okay. Okay. Thank you. Ladies and gentlemen, I share Senator Flood's sentiments on this. I think that allowing...effectively allowing Lincoln, Omaha, and Bellevue an extra year to come up with ideas, when everyone else is competing on a competitive basis, the most level playing field, I think, possible, and yet the three larger communities...largest communities in the state have an extra year. They have funds protected, because if they don't use them within the year, then they revert back to everyone else, but they have that year built in there. And that does concern me. I've said it before, and I guess I need to say it again, that

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Lincoln and Omaha, and I'll even toss in Bellevue, because they have a built-in economic development tool with the Air Force base. Not quite all of the high school athletic tournaments are done yet this year, I believe. There's still baseball, perhaps, maybe a couple others. But state track was just last weekend. And for any of you who haven't been to the state track meet, that is one nice economic development tool. They have the facility that is nowhere else available in Nebraska. That's fine. I do not criticize the School Activities Association for going to Burke Stadium to have those events there. It's well attended by folks from all across the state. But I have to say, I am sick and tired of the largest cities in this state coming and whining to the Legislature that they don't get their fair share. We've seen Lincoln come in, expecting more of the gas tax dollars, when I don't know how many times I've filled up my gas tank in Lincoln, and other rural Nebraskans as well, compared to citizens of Lincoln filling up their gas tank outside of Lincoln. This entitlement mentality is bothering me. And I suppose that there are those who use the exact same arguments against rural Nebraska, because rural Nebraska happens to receive some benefits that don't exist in urban Nebraska. But I think that this part, that has a very special treatment for the three largest cities in the state, I think is perhaps a new concept. Because for most of the programs that benefit rural Nebraska, those same programs are available in urban Nebraska, and they are on a competitive basis, and we move on from there. But I have serious reservations in how this is expended. And I don't want to stand up, I don't know how many times, again, and reiterate the fact that Lincoln and Omaha and Bellevue have built-in economic development tools that the rest of Nebraska doesn't have. And I don't know how much more they want, other than the state to pay for the extreme, extremely necessary rehabbing of Centennial Mall, as just one example. But as we look at this whole issue, I hope that we'll be mindful of the fact that...

SENATOR CUDABACK: One minute.

SENATOR SMITH: ...if we're going to have a competitive program here, it needs to be exactly that. Now, if the fact that Omaha received zero funds in a particular category, (laugh) I have to

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ask the question, were there any programs worth funding? Or did they even apply? A lot of times there's criticism for not receiving any benefits, when there were no requests made. Please keep that in mind. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Smith. On with discussion of AM1666 to LB 40. Senator Landis, followed by Senator Chambers.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, the issue is out here on the floor and on Select File because the proponents of this change were unsuccessful in the Revenue Committee, because we were faced with a lot of the same evidence that you've been given. And we had, in fact, some proposals as to what to do about it. And we reflected and weighed on it back and forth. And in the end, we chose not to try some kind of a legislative apportionment process. Now, there's going to be a phrase everybody is going to be able to make a use of, and that is, our fair share. "Our fair share" is in the eye of the beholder. As a matter of fact, Michael just used it, and in fact, I think Senator Redfield will use it, and because it means different things to different people. Let me tell you what I think when I define that term. "Fair share" certainly would revolve around need. However, it's not going to help us decide who should get grants. And the reason is, we have need border to border in this state for affordable housing. We have need in rural Nebraska; we have need in urban Nebraska. We're going to find that there's need practically everywhere. And that will not help us particularly in defining what is a fair share, because everybody is going to need this money. Is population a fair stand-in for fair share? And you'd think that if you couldn't solve on need, that population might be. But in fact, I don't think so. I think being the winner of a competitive process in which bang for buck and the leveraging of funds and the maximum results that you get for that is the tool to use to determine fair share. The people who can make the claim and show it to DED that they've leveraged their money to the maximum that they possibly can, that this is efficiently created a structure as possible, so that we're getting as much housing as we can for the money, that there is a lack of alternative revenue sources, like federal fundings and the like, those

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things I think go into determination of fair share in a better way than population. That's why, as a Lincoln senator faced with evidence that Lincoln doesn't get its, quote, fair share under the population form, I say, that's all right, I can live with that. If my city hasn't worked hard enough to come up with the competitive projects, if they haven't leveraged those to the max, if they haven't done their homework and the foot power on the street, then they shouldn't get those projects, and they should go where they are, not more deserving in the sense of need, because we have that everywhere, but more deserving in the sense of how hard they worked to get the grant, leveraged the money, work on a consensus basis, get collaborators and coalition builders, and stretch dollars the furthest amount. So I'd have to say, I'm going to vote against AM1666, as I did in the Revenue Committee, or, it's the same thing there. I'm going to say that "fair share" is the same idea for...that we're all working on here. But we have need in every part of the state. And population, I don't think, supplants an alternative form, and that is the competitive process of determination what fair share is. I think the competitive process is the better way to go than to assume some kind of population basis that applies, in this case, to only a limited number of claimants, and that's the ones that are 50,000 and over. I'm going to oppose the Redfield amendment.

SENATOR CUDABACK: Thank you, Senator Landis. On with discussion. Senator Chambers, followed by Senator Redfield. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I wasn't able to follow all the discussion because I was otherwise occupied. But I had heard Senator Flood's comments. And I'd like to ask him a question or two, to be sure that I understand what he was saying, or what he meant. Senator Flood, first of all, where does the majority of this money come from?

SENATOR CUDABACK: Senator Flood, would you respond?

SENATOR FLOOD: The Affordable Housing Trust Fund?

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SENATOR CHAMBERS: Yes. Where does the majority...where is the majority of that money generated?

SENATOR FLOOD: Documentary stamp tax.

SENATOR CHAMBERS: And what location in the state produces the most documentary taxes?

SENATOR FLOOD: Although I do not have specific data on that, Senator Chambers, I would imagine, Omaha being the most populated area in the state, that Douglas County would generate the most in taxes.

SENATOR CHAMBERS: What I had wanted to do was give back to Douglas County, and then Omaha, dollar-for-dollar what they put into that fund.

SENATOR FLOOD: Can I ask you some questions?

SENATOR CHAMBERS: No, no, it's my time. (Laughter) (Singing) You have the right to speak your mind, but not on my time. And that's all I will ask you. Thank you, Senator Flood.

SENATOR FLOOD: Thank you.

SENATOR CHAMBERS: Members of the Legislature, we know where the money comes from. Senator Flood and people in other parts of the state are the ones who feel they have an entitlement. What is being proposed by Senator Redfield is far more modest than what I had in mind. This that she is presenting is reasonable, it is rational. There is a logical connection between where and the amount of money produced, and the amount that is being set aside in this proposal. Senator Flood is correct when he talks about problems everywhere. But we're not talking about problems everywhere. We're talking about distribution of money from a fund. Daddy Warbucks puts the money in, and Senator Flood wants everybody else to take it out. And he says that's the only way you can be just. Where he comes from, they don't put money like that into this fund. He's saying, don't let Omaha feel that they have an entitlement. But he's trying to set up and establish an entitlement for those who, comparatively speaking,

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don't put anything into the fund. He wants them to be entitled to siphon off. Yet, when I was trying to get some General Fund money to directly help the area that Senator Flood represents, Senator Flood was against it. He was against it. And that was not going to deprive the people he represents of anything. But he was against it. Now we come to a set of circumstances where a fund is in existence, and the lion's share of the money comes from Omaha. And Senator Redfield was able to move me from my position of saying, dollar-for-dollar let it come back and let everybody take care of their own onions. She didn't think that was the appropriate approach to take. So she moderated and reduced the amount to what it is in her proposal. I support it. I'm not going to condemn Senator Flood for what he's trying to do here today. He's seeking redemption for...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...the wrongful thing he did the other day. And I believe in redemption. But there's a more direct way he can do it. LB 90A is still on the board. So what does he do? He hangs his head and walks away. (Laughter) Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. (Visitors introduced.) On with discussion. Senator Redfield.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I would remind everyone here that we have per capita distributions for a number of funds. First one I think of is state aid to schools--per capita distribution. We have state aid to cities, we have other state aid programs; they're per capita. Now, what would it be like if our schools had to compete on the basis of their project in order to get state aid back to their K-12 school? It's problematic. I don't think there's something wrong with a per capita formula. And Senator Chambers is exactly right. I am not, in this amendment, drafting anything that would say there would be a dollar-for-dollar distribution. Thirty-four point six percent of the funds come from the Omaha area. They're asking for a per capita distribution, which would be 22 percent. I'm hoping that we can take it to an up or down vote. I will accept the

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results of that vote. That's certainly significant, and it would allow the body to speak. I know we don't have a lot of time, a lot of days left in the session. I'd like to move the bill forward. But what I will remind everyone is that this bill actually raises the documentary stamp tax, which means that people in the Omaha area will be increasing the fee that they pay when they transfer their property. And that means that that 34.6 percent that they contribute to the Affordable Housing Trust Fund will actually go up proportionately with the rest of the state. But it will also allow 30 cents to be earmarked for distribution for rental for those with serious mental illness. And that certainly is something that Senator Flood will benefit from in his district. And that will be paid for, to a great degree, by the people in the city of Omaha, the city of Lincoln. And I think that we are creating a fund that is sufficient for all to share. I believe per capita is a fair distribution. I'm hoping that you'll adopt the amendment. Certainly, let's take a vote and move on with the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Redfield. Senator Flood.

SENATOR FLOOD: Thank you, Mr. President, members. If this is an Omaha versus rural Nebraska battle, that's wrong. If this is about the state aid formula, I want to correct the record, because that's not done per capita; that's done by need. We could do this by legislative districts, but it even makes the whole concept more insane. My legislative district would be one county. What are the doc. stamps in your district, Senator Chambers? What are the doc. stamp taxes in your district, Senator Redfield? This is insane. If you're going to do it per capita, you're only picking three cities to do it per capita, and then the rest of us fight over the scraps. I do believe that the Affordable Housing Trust Fund is important. I supported the increase. I support the good work that Senator Redfield has done with others with regard to behavioral health. I want to see this money go to people who need it. Most of those people who need it are people that are working poor. And this house does more than just give them shelter; it gives them a leg up in life to get on track and to own something. But the idea that we pick three cities out is not right. And I can stand here and tell you that the city of Norfolk didn't receive

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any money last year. Now, Tilden has, in the past, here and there. But the city of Omaha last year received \$416,000. I would be interested in knowing how much the city of Omaha received in federal funding last year to aid and assist their efforts in affordable housing. Senator Chambers, would you yield to a question?

SENATOR CUDABACK: Senator Chambers, would you respond?

SENATOR CHAMBERS: No. Yes, I will. (Laugh)

SENATOR FLOOD: Senator Chambers, you and I had a brief discussion about per capita issues regarding Omaha. I'm interested in knowing what the city of Omaha received in federal funds to aid their affordable housing efforts from 1998 to 2004.

SENATOR CHAMBERS: You'd have to ask somebody other than me for that figure.

SENATOR FLOOD: Is it true that the city of Omaha receives federal funding to aid their affordable housing efforts?

SENATOR CHAMBERS: I believe that's probably true, yes.

SENATOR FLOOD: Do they receive in excess of \$1 million to aid their...?

SENATOR CHAMBERS: I can't tell you, but that might be so. I just don't have the figures. So if you said \$500,000, I couldn't give you the figure.

SENATOR FLOOD: Now, is it also true, Senator Chambers, that the city of Omaha would qualify as an entitlement area, as identified by the federal government, eligible for federal funds?

SENATOR CHAMBERS: What do you mean by that?

SENATOR FLOOD: A community over the size of 50,000 that qualifies for federal funding.

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SENATOR CHAMBERS: On what do you base that?

SENATOR FLOOD: Actually, I'll ask the questions, Senator Chambers. (Laughter)

SENATOR CHAMBERS: (Laugh) Touche.

SENATOR FLOOD: Mr. President, would you please direct my witness to answer my question? (Laughter)

SENATOR CHAMBERS: Would you repeat the question, please?

SENATOR FLOOD: Is it true that the city of Omaha qualifies under a federal program to receive funding?

SENATOR CHAMBERS: Maybe so and maybe not, but yes.

SENATOR FLOOD: And is it also true that other cities that aren't the size of Omaha, Bellevue, or Lincoln do not meet the requirements as identified earlier in testimony from Senator Redfield?

SENATOR CHAMBERS: Any city that does not meet the requirements does not meet the requirement, and cannot qualify.

SENATOR FLOOD: So if we look at all this money, Senator Chambers, and Omaha gets this federal funding to assist in its affordable housing efforts, it's received \$4.5 million, why do we want to make sure they get even more money in Omaha, and not in the rest of Nebraska?

SENATOR CHAMBERS: Because where the need is greatest, that's where you concentrate the efforts. And Omaha has those great needs. Plus, they generate so much of the money that's in this specific fund.

SENATOR FLOOD: And by your answer, I would trust that you visited all 93 counties and have conducted your own assessment of the...

SENATOR CUDABACK: One minute.

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SENATOR FLOOD: ...needs of affordable housing across the state. Is that true?

SENATOR CHAMBERS: Suppose I said yes?

SENATOR FLOOD: I'd be interested in your findings.

SENATOR CHAMBERS: I found that Omaha is entitled to this 22 percent.

SENATOR FLOOD: Your argument, with all due respect, Senator Chambers--and I appreciate your efforts to answer my questions--is...fails for lack of, in my opinion, real need. I do not think that...now, I shouldn't say "real need." I think Omaha does have a significant need, and they need as much money as they can be given. But they should be competitive, as is the rest of the state. There's no reason that Nebraska City should have to sit in the back seat because Omaha is guaranteed this money and then Nebraska City fights with Kearney and Columbus. If we're talking about per capita, this isn't per capita. This is Omaha, Lincoln, and Bellevue, and then the rest of us fight over the Oscar Mayer wiener for the balance. I would return the balance of my time. Thank you, Mr. President.

SENATOR CUDABACK: You don't have any left, Senator Flood. Mr. Clerk, items for the record.

CLERK: Mr. President, just one item: A motion with respect to LB 548 to be printed. (Legislative Journal page 1730.)

I do have a priority motion. Senator Hudkins would move to recess until 1:30 p.m.

SENATOR CUDABACK: The motion, to recess until 1:30. All in favor say aye. Opposed, nay. We are recessed.

RECESS

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LB 126A, 538

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, the afternoon session is about to reconvene. Please check in. Members, the afternoon session is about to reconvene. Please check in. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. It is 1:30. As the agenda states, General File, 2005 priority bills, 30-minute division. At the operation (sic) of 30 minutes, if each principal introducer is not closing on advancement, the bill shall be removed from the agenda. Mr. Clerk, LB 538.

CLERK: Mr. President, if I may right before that, one item for the record.

SENATOR CUDABACK: You may.

CLERK: Enrollment and Review reports LB 126A to Select File. LB 538, a bill by Senator Brashear. (Read title.) Introduced on January 14 of this year, referred to the Judiciary Committee, advanced to General File. I do have committee amendments, Mr. President. (AM1650, Legislative Journal page 1669.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Brashear, you're recognized to open on LB 538.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. LB 538 was proposed by the Community Corrections Council as a part of its ongoing effort to bring about a shift of a portion of our prison population to community-based programs and to avoid the cost of constructing a new prison. For those of us who may not be as familiar with the effort of the Community Corrections Council, let me provide a little background. Even after we constructed and occupied the new Tecumseh prison, we

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still faced a prison population crisis if we did not act. We faced the real possibility of having to construct yet another maximum security prison. In 2001, Governor Johanns convened a community corrections working group to initiate the process of building a community corrections system in Nebraska. Two prior efforts to increase reliance on community corrections had failed. In 2003, this body adopted LB 46, which created the Community Corrections Council, provided a source of funding and made other statutory changes intended to make community corrections actually work. Since that time, the council has made considerable progress. We have identified a target population of felony drug offenders, particularly those who received substance...pardon me, particularly those who received sentences of incarceration of less than three years. That is the population which we seek to move out of our prisons and into our community-based programs. We have adopted and developed sentencing guidelines for the target population that will provide guidance for judges in determining when incarceration is appropriate and when community corrections programs are preferable. These guidelines have been forwarded to the Nebraska Supreme Court for further action pending further data and modeling. We have adopted the work of the Justice Substance Abuse Work Team, which has developed a standardized model for evaluation of substance abuse of those in the criminal justice system. This will put criminal justice and mental health substance abuse professionals on the same page, so to speak, when dealing with a very significant problem of substance abuse among offenders. We have worked with the Office of Probation Administration and the Office of Parole Administration to develop a new form of probation and parole supervision that is called specialized substance abuse supervision, or SSAS. With the great assistance of Senator Synowiecki, the Appropriations Committee has made funding available for additional probation personnel that will combine with the council funding to allow the SSAS program to move forward, and we thank, on behalf of the council...Senator Synowiecki and I are the representatives of the Legislature to the council, and we thank the Appropriations Committee. We have also developed, in conjunction with others, a voucher program that will assist with treatment costs for offenders with substance abuse problems. We also have received additional help from the Appropriations Committee for that

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program and we are grateful for the recognition of the need in this area. Finally, we have been assigned responsibility for a statewide study of methamphetamine treatment requirements and the appropriate response to those requirements. Although it did not receive much attention during our debate on LB 117, it is important to note that we are making efforts on treatment and specialized supervision programs. We are not simply taking a lock-'em-up approach. The degree of hard work, cooperation and understanding of the council, this body, its Appropriations Committee and its Judiciary Committee, and those involved in all facets of the criminal justice system has been really very impressive, cooperative and gratifying. We are making real progress and LB 538 is intended to further that progress. Because the committee amendment becomes the bill, I will terminate my opening at this time and wait for the committee amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. You've heard the opening on LB 538. There are committee amendments, as stated. Senator Bourne, Chairman of the committee, you're recognized to open on the Judiciary Committee amendments.

SENATOR BOURNE: Thank you, Mr. President and members. This is one of those times where Senator Brashear has such an expertise in this area that the Judiciary Committee honestly had very little involvement in this. And lest you think that this was our amendment, even though the entire committee supports this, I would yield my time to Senator Brashear so that he could explain the details of the committee amendment.

SENATOR CUDABACK: Senator Brashear, about 9, 40.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. Thank you, Senator Bourne, and thank you to the membership of the Judiciary Committee. As mentioned, the committee amendment becomes the bill, so the provisions described with respect to AM1650 are those of the bill. First, an additional nonvoting member is added to the Community Corrections Council representing the Health and Human Services System. Second, the administrative position of the council and its position adjunct to the Crime Commission is clarified.

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Third, the bill requires validation of a risk...of risk assessment tools used by both probation and parole. These are very important tools used in the sentencing and the placement of offenders. The tools we have been using have not been subjected to a validation process, so we will now have the assurance that we are doing the right thing using the validated tools. The council adopted the view that it is important to commit the resources to ensure that these assessment tools are, in fact, valid measures of an offender's risk of additional requirements from the criminal judicial...justice system. Fourth, the bill allows the limited use of probation personnel and resources for drug court and problem-solving court programs, programs in which the individuals involved are not on probation. These drug court and problem-solving courts have been very successful and are completely within...or with...in harmony with the community corrections effort. Our current statutes restrict the use of probation personnel to supervise persons who are not on probation, and we correct that. Some drug courts operate in a manner in which the subject persons are not on probation. The bill would allow probation resources to be used for supervision of persons not on probation, but only in those limited situations in which a drug court or problem-solving court is set up pursuant to an interlocal agreement, and only if the resources for...which are provided by funds that are not General Fund resources of the Office of Probation Administration. This will ensure the General Fund money is used only for the central mission of probation and that other resources are provided when probation personnel are used in drug court programs. We believe that this approach will facilitate the community corrections effort. Fifth, the bill allows for the collection of fees from drug court and problem-solving court participants who are not on probation if they are making use of state-provided resources, such as a day reporting center or other such aspect created as a part of the SSAS program. Sixth, the responsibilities of the Justice Substance Abuse Work Team, which have already been adopted by the council administratively, are adopted in the statute. Seventh, the bill provides statutory authority for the Work Ethic Camp to add a drug treatment program. Finally, the crime of assault on an officer is expanded to include probation officers. This is in recognition of the expanded role that probation officers play in a system that increasingly relies,

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and will rely, upon community corrections. I appreciate the work of the very many people that has gone into this bill and I ask for the adoption of the amendment and the advancement of the bill. I thank you for your time and attention.

SENATOR CUDABACK: Thank you, Senator Brashear and Senator Bourne. You've heard the opening on AM1650, offered by the Judiciary Committee. Mr. Clerk, please.

CLERK: Mr. President, Senator Brashear would move to amend the committee amendments with AM1713. (Legislative Journal pages 1731-1732.)

SENATOR CUDABACK: Senator Brashear, to open on the amendment to the committee amendments.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. AM1713 provides some additional amendments to remove some language that is a matter of controversy among members of us here on the floor, and it will facilitate the movement of this bill within the conditions and conventions of the 30-minute calendar. I ask for the adoption of the amendment. This is an elimination, not an addition, and will not adversely impact the operation of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Brashear. You've heard the opening on AM1713, offered by Senator Brashear. Open for discussion. Senator Brown.

SENATOR BROWN: Thank you, Mr. President and members. I will rise in support of the bill, the committee amendment and the amendment that is pending in front of us. And I won't speak for long, but I was approached by someone, whose daughter is a youth probation officer who was assaulted, who had found about this bill, felt very strongly about it. This was last week. I checked on the status of the bill, and it's very nice when somebody has something that they feel particularly strongly about, and I feel strongly about everything that is in this bill. And I thank the committee for all the work that they've done on this particular issue. And what we have done with community corrections I think sets us on a path that hopefully

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will make the future much better and much more easy to manage from a financial standpoint and also from a human standpoint, but anyway, to be able to let this individual know that the issue that he was interested in is being addressed. And so he's making phone calls as we speak, in support of this bill, even though I said that I thought that we were in very good hands with the bill. And so I would support everything that is in front of us, and thank Senator Brashear for all of his work in this area. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Further discussion on the Brashear amendment, AM1713? Senator Brashear, I see no lights on. You're recognized to close. Senator Brashear waives closing. The question before the body is adoption of the amendment offered by Senator Brashear, AM1713. All in favor vote aye; opposed, nay. We're voting on the Brashear amendment to the committee amendments to LB 538. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Brashear's amendment.

SENATOR CUDABACK: The amendment is adopted. Back to discussion of the committee amendments. Seeing no lights on, Senator Bourne, you're recognized to close.

SENATOR BOURNE: Thank you, Mr. President and members. Listen, a lot of times we don't recognize people who do a lot for this state, and I don't think any of us in here today appreciate how much work Senator Brashear and others have put into this legislation, and I think we'll see in the next few years that this is probably some of the best work that I'd like to say we, but I think that this Legislature will have done. And I think that will be demonstrated in the next few years as this project comes to fruition. With that, I would urge your adoption of this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator. You've heard the closing on the Judiciary Committee amendments to LB 538. All in favor vote aye; opposed, nay, of adopting those amendments. We're voting on adoption of the Judiciary Committee amendment, AM1650,

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to LB 538. Have you all voted who wish to? Record please, Mr. Clerk.

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further on the bill, Mr. President.

SENATOR CUDABACK: Discussion on E & R Initial advancement? Senator Synowiecki.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. I just wanted to rise and thank the Judiciary Committee for your hard work on the bill. I want to thank Senator Brashear for working with me on a couple of issues within the bill. And in particular, the reason why I'm getting up is to thank the Appropriations Committee. The Appropriations Committee is playing a very complementary role to our aspirations to get at a point where we feel comfortable with our community corrections program where we have real substantive alternatives to those, to that population of offenders that don't need a penitentiary setting, that they can be better served, and monetarily a lot cheaper for us, in the community, and that's ultimately the goal. And because of the work of what the Appropriations Committee did in terms of the personnel adjustments to the probation budget, we are now on course to do some real neat things, quite frankly, and I just hope that we can keep this all intact, that the probation personnel segment of this stays intact through this process, through legislative process, and then the programming and treatment needs comes out of the Community Corrections Council, so that it is really, truly a unique collaboration between the executive branch, judicial branch, Appropriations Committee, Judiciary Committee, all coming together with a streamlined agreement that we need to do something with our Department of Correctional (sic) cost. We had been experiencing double-digit increases year in and year out since I've been down here, and this is our first real substantive step in the direction of offsetting the Department of Corrections budget items; and

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beyond that, on the human level, offering some of these individuals that are confronting addictions some real, true, bona fide hope in the sense of truly turning their life around so that they're not confronted with the recidivism issues that we often associate with those addicted to drugs. Also, Senator Brown, I, too, want to echo your thoughts relative to the provisions within the committee amendment, relative to helping to statutorily protect to a little bit of a further degree our probation officers. The unfortunate reality of the day we live in and the more...as we expand the scope of those that are put on probation these days, you know, unfortunately that's a reality that we're dealing with a population sometimes that the safety of the officer is of paramount concern. And I was in the probation office for 12 years and I was not aware of one assault on an officer, but in the last two or three years, unfortunately, we have experienced a series of assaults against our probation officers. I might remind members that our probation officers are not armed. They do not carry any weapons whatsoever except for the tear gas type of armament. But I, too, Senator Brown, am quite pleased that the Legislature is recognizing in statute of the peculiar dangers that are associated with probation work in our state. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. Further discussion? Seeing none, Senator Brashear, you're recognized to close on advancement of LB 538.

SPEAKER BRASHEAR: Thank you, Mr. President, members of the body. If I were to begin thanking people individually within and outside the body, the list would be too long. I'm not going to do that. I just want to thank the body for the creation of the Community Corrections program and the adoption of the Community Corrections Act. This is the best collaborative effort of my experience within state government. I'm talking outside the body and other than a committee. But this is a collaborative effort that draws from many different sectors of our society and it is working. Thank you. I'd urge the advancement of the bill.

SENATOR CUDABACK: Thank you, Senator Brashear. You've heard

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LB 421-427, 484, 538, 538A, 737

the closing on advancement of LB 538. The question is, shall LB 538 advance to E & R Initial? All in favor vote aye; opposed, nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of LB 538.

SENATOR CUDABACK: LB 538 does advance. Mr. Clerk, LB 538A.

CLERK: LB 538A. (Read title.)

SENATOR CUDABACK: Senator Brashear, you're recognized to open on LB 538A.

SPEAKER BRASHEAR: Mr. President, members of the body, the appropriations bill trails, as you know. This is \$500,000 for the validation of the tools as described in the opening to the principal bill. I would urge the adoption of the A bill. Thank you.

SENATOR CUDABACK: You've heard the opening on LB 538A. Open for discussion. Seeing no lights on, Senator Brashear, did you wish to close? Senator Brashear, did you wish to close? He waives closing. The question before the body is, shall LB 538A advance to E & R Initial? All in favor vote aye; those opposed vote nay. We're voting on advancement of LB 538A. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on the advancement of LB 538A.

SENATOR CUDABACK: LB 538A is advanced. (Visitors introduced.) Mr. Clerk, items?

CLERK: Mr. President, I do. I have communications from the Governor. (Read re: LB 421, LB 422, LB 423, LB 424, LB 426, LB 427, LB 737 and LB 425.) Mr. President, that's all that I have at this time. (Legislative Journal pages 1732-1736.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to LB 484,

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LB 484

Mr. Clerk.

CLERK: LB 484, Mr. President, by Senator Cunningham, as Chair of the Business and Labor Committee. (Read title.) The bill was introduced on January 14, referred to the Business and Labor Committee, advanced to General File, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. As Chairman of the Business and Labor Committee, Senator Cunningham, you're recognized to open on LB 484.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. LB 484 is the Department of Labor's annual cleanup bill. I will tell you that there are sections in this bill that are of vital importance to the state of Nebraska, and other sections in the bill that were introduced in a bill from the Ninety-Eighth Legislative Session that were not passed due to lack of time. So in explaining the bill, I will explain the priority sections first. The first priority is the anti-SUTA dumping sections. This includes Sections 1, 9 and 10. The U.S. Department of Labor is requiring that every state enact anti-SUTA dumping legislation. SUTA stands for State Unemployment Tax Account, and SUTA dumping occurs when employers artificially reduce their state unemployment tax rate through paper transfers between related business entities. Although Nebraska's Department of Labor has initiated regulations to handle this problem, the U.S. Department of Labor requires specific legislation or state employers will lose over \$200 million per year in federal unemployment tax credits. Section 10 is the language that the federal department suggested, and it allows our commissioner three options for penalizing businesses that practice SUTA dumping. The second priority in the bill is the use of electronic funds transfers found in Sections 3, 6 and 7. Section 3 authorizes the Department of Labor to pay unemployment benefits through the use of electronic fund transfers. Section 6 and 7 requires some employers to file their combined tax returns and pay their taxes electronically unless the business can show that electronic filing would be a hardship on the business. The anti-SUTA dumping and the use of electronic funds are the department's two priorities. The balance of the sections are as follows: Section 2 exempts National Guard and

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Reserve Unit pay from the definition of "wages" in figuring unemployment taxes. Section 4 clarifies that a prisoner that is incarcerated is considered unavailable for work for the purpose of drawing unemployment benefits. Section 5 provides that any person adjudicated to have fraudulently received unemployment benefits twice in a five-year period cannot draw additional benefits until he or she repays the benefits that were fraudulently obtained. Section 8 provides the commissioner flexibility in setting the state unemployment insurance tax that is used to provide grants for training workers. Currently, the tax can be set either at 0 percent or 20 percent. The change under this bill allows it to be set anywhere between 0 and 20 percent...or through 20 percent. Section 11 provides that if an employer participates in a fraudulent scheme to pay an employee unemployment benefits, the employer's experience account is not credited back with any recovered overpayments arising from the fraud. This bill did not receive any opposition during the hearing. When it advanced from the committee, there were three senators absent. However, in getting this bill on the Speaker's priority list, I asked the missing members whether they supported this bill, and gained the approval of two of the three senators. With that, I ask for your support of LB 484.

SENATOR CUDABACK: Thank you, Senator Cunningham. Madam Clerk, a motion.

ASSISTANT CLERK: Mr. President, the first amendment I have is from Senator Louden. Senator, I have AM0995, but I have a note that you wish to withdraw that.

SENATOR LOUDEN: Yes, Mr. President, I'd withdraw it and...

SENATOR CUDABACK: It is withdrawn.

SENATOR LOUDEN: ...refile it on Select File.

SENATOR CUDABACK: So ordered. Next amendment, Madam Clerk.

ASSISTANT CLERK: Mr. President, the next amendment I have is from Senator Cunningham. Senator, I have AM1250. (Legislative

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LB 484, 739

Journal page 1616.)

SENATOR CUDABACK: Senator Cunningham, you're recognized to open on AM1250 to LB 484.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. This very simply is a technical amendment to bring these statutes in conformity with the language that was used in LB 739 when we passed...we passed early this season. In LB 739, the term "combined tax" was used rather than the term "contribution." Additionally, the term "combined tax rate" was used in four...therefore, this amendment is to bring these statutes in conformity with the terms used in LB 739. And I wish for the adoption of this amendment. Thank you.

SENATOR CUDABACK: You've heard the opening on AM1250 by Senator Cunningham. Open for discussion. Senator Cunningham, there are no lights on. Senator Cunningham waives closing. The question before the body is, shall AM1250 be adopted? All in favor vote aye; opposed, nay. Voting on adoption of the Cunningham amendment, AM1250, to LB 484. Have you all voted who care to? Record please, Madam Clerk.

ASSISTANT CLERK: 34 ayes, 0 nays, Mr. President, on adoption of the amendment.

SENATOR CUDABACK: The Cunningham amendment has been adopted. Mr. Clerk, next amendment, please.

CLERK: Mr. President, Senator Foley would move to amend, AM1699.

SENATOR CUDABACK: Senator Foley, to open on AM1699 to LB 484.

SENATOR FOLEY: Thank you, Mr. President. I'd like to withdraw that amendment and refile it on Select.

SENATOR CUDABACK: So ordered. Mr. Clerk.

CLERK: I have nothing further on the bill at this time, Mr. President.

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LB 13, 484

SENATOR CUDABACK: Discussion on advancement of LB 484? Seeing no lights on, Senator Cunningham, you're recognized to close on advancement. Senator Cunningham waives closing. The question before the body is, shall LB 484 advance to E & R Initial? All in favor vote aye; opposed, nay. We're voting on advancement of LB 484 to E & R Initial. Have you all voted? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB 484.

SENATOR CUDABACK: LB 484 does advance. We now go to LB 13.

CLERK: Mr. President, LB 13 was a bill originally introduced by Senator Landis. (Read title.) The bill was introduced on January 6, referred to the Business and Labor Committee, advanced to General File. I do have committee amendments pending, Mr. President. (AM0761, Legislative Journal page 999.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on LB 13.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. LB 13 was one of two bills brought to me by the Workers' Compensation Court before the advent of this session. This was a group I've worked with in the past on several other pieces of legislation, and since it carried out some of those pieces of legislation, they came to me on this subject to see if we could agree as to what direction they wanted to take. And I had absolute agreement with the court as to what direction they wanted to go. LB 13, one of these two measures, simply tries to clarify and separate administrative functions from judicial functions inside the Workers' Compensation Court. It's a very unique hybrid case, the court is, because it accomplishes some judicial ends but, at the same time, it runs administratively a number of functions. So what the court has done is that they have chosen an administrator, and that administrator has been doing a lot of administrative functions of the court, and yet, the statutes don't refer to this administrator who has sprung up over time to help the court solve its problem. It wants to

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solve...listen to cases and make judgments, and yet it needs to administer funds, hire people, determine, for example, the average wage of the state for the purposes of our indexing that occurs in the workers comp field--a bunch of administrative tasks. What happens is, in this act, is that LB 13 clarifies these two functions. It identifies that there is the formal creation of the position of the administrator for the court; that administrator is appointed by the presiding judge with the approval of the rest of the court; that the administrator will determine the average weekly wage for the purpose of that rising index that we have over there; that the administrator will prescribe the form and manner of accident and settlement forms rather than the court itself; that it can require information of employers and it can assess costs for the self-insurance programs that we have because that's the simply administrative costs that we get back from self-insurers; and the list goes on. The general idea--create in statute the formal administrative role in the administrator's function and have the court's chief presiding judge, with the approval of the rest of the court, appoint that person, identify some of their tasks to do. This will assist in a later issue that we'll hear about, which is enforcement, because later on we'll hear that it will be the administrator that will make a complaint, if you will, to the Attorney General's Office, who will then be able to bring it back to the court for the court's jurisdiction. And the creation of this function and separating it from the judicial function is a wise thing to do. The committee made a number of changes, and there are some committee amendments, and I endorse them. I would sit down and let you hear about the committee amendments.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on LB 13. As stated by the Clerk, there are committee amendments. Chairman of the committee...almost forgot your name, Senator Cunningham, to open.

SENATOR CUNNINGHAM: Well, thank you, Senator. Well, after the hearing on LB 13, there were a couple of concerns with the assignment of responsibilities. So the administrators of the Supreme Court and the compensation court met and addressed these concerns. And as a result, the following changes were made to

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LB 13, 219, 737

the green copy of the bill. It provides that the Nebraska Supreme Court will have approval of the presiding judge of the compensation court and shall have approval of the rules and regulations relating to compensation court's adjudicatory function. It retains current law as to the assignment of work to the judges. It provides that the administrator will be approved by the compensation court and not the Legislature. It inserts a division between the presiding judge and the administrator, so that the presiding judge appoints a clerk and the employees that support the judicial proceedings, and assigns the work to those employees, and the administrator appoints the employees and assigns the work to carry out the duties of the administrator. And the original language was restored so that the compensation court determines the salaries of the court's employees versus the administrator making that determination. In addition to the changes in LB 13, this amendment incorporates LB 219, as amended by the committee. The primary change to the current law in LB 219 and this amendment is to allow a plaintiff to dismiss his or her claim without prejudice so long as the plaintiff is represented by an attorney. If the person is not represented by an attorney, then current law still applies. The other change in LB 219 strikes much of Section 1 and rewrites it in a user-friendly form and moves it to Section 16 through 20. Section 21 is the new language to the compensation statutes. It will require that generic drugs are used unless the doctor provides written verification that a nongeneric drug must be used. The last sections that I will want to call your attention to are Sections 3 and 23. As you know, this body must approve workers compensation claims against the state when the award settlement or judgment is over \$50,000. Now if you recall, we had three of those claims earlier in LB 737. Those were approved with the budget bills last week. And in current statute, there is the option of the court to assess a 50 percent penalty for waiting time. Now it was thought that the penalty would not apply until such time as the claims bill was through the legislative process and the appropriations bill was signed. However, earlier this session, the Nebraska Supreme Court, under the case of Soto v. the State of Nebraska, held that the compensation court may assess waiting time penalty if the award or judgment is not paid within 30 calendar days starting with the first day of the session. Now because of that decision the

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committee made the unanimous decision of raising the amount of the claim that the Legislature needed to approve from \$50,000 to \$100,000 so that the employee could receive his or her money quicker. And secondly, it approved the risk manager's clarification that the 30 days will begin to run after the bill is submitted to the Legislature and the funds are appropriated through the normal legislative process. This amendment was approved by the committee on a 6 to 0 vote with 1 senator absent. Again, most of the sections concern the duties of the administrator to the compensation court, and a rewrite of the statute does not substantively alter current law. Adding the requirement of generic drugs and the ability of the plaintiff to dismiss his or her own claim if represented by counsel, these are reasonable requests. And the \$50,000 floor for approval was set in 1971. So raising that to \$100,000 is also reasonable. And I can tell you that the primary opposition to any of these issues, they were addressed by this amendment. AM0761 is needed, and I would urge your approval. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. Mr. Clerk, please.

CLERK: Mr. President, I had amendments to the committee amendments from Senator Landis, but a note to withdraw.

SENATOR CUDABACK: They...it is withdrawn.

CLERK: Senator Chambers had an amendment and I understand that he wishes to withdraw as well, Mr. President.

SENATOR CUDABACK: It is withdrawn.

CLERK: I have nothing further to the committee amendments, Mr. President.

SENATOR CUDABACK: Discussion on the committee amendments? Senator Beutler, did you wish to address the committee amendments? Senator Beutler. Senator Beutler. Senator, did you wish to address the committee amendments? Seeing no further lights on, Chairman of the committee, Doug Cunningham, you're recognized to close.

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LB 12, 13

SENATOR CUNNINGHAM: Waive.

SENATOR CUDABACK: He waives closing. The question before the body is adoption of the committee amendments, AM0761, to LB 13. All in favor vote aye; opposed, nay. We're voting on adoption of the committee amendments by Business and Labor Committee to LB 13. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted.

CLERK: Senator Landis would move to amend with AM1671. (Legislative Journal page 1694.)

SENATOR CUDABACK: Senator Landis, to open on your amendment to the bill itself.

SENATOR LANDIS: Thank you, Mr. Clerk, Senator Cudaback. This is the last of the amendments on this measure. It is also a bill that was listened to, heard by the Business and Labor Committee and reported out. It was the companion bill, LB 12. And the provisions are important because this establishes an enforcement mechanism for various administrative and regulatory provisions of the workers' comp law. Problem is, if you're the decider, how do you initiate an action that's going to come back to you if you're the judge, because even in the process of initiating the claim, aren't you making a decision, in part, as to the guilt or innocence of the person that you're charging with whatever the wrong might be? So, having just created the administrator's role in statute in the previous language, the court then said, look, once we do that, let's have the administrator go to the Attorney General, make the complaint to the Attorney General, and the Attorney General come back to this court and file its complaint. Therefore, Section 3 allows the Attorney General to bring an action before the comp court to revoke or suspend a managed care plan that's not being done according to statutes. Section 8 allows the Attorney General to

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LB 12, 13, 395, 532

revoke a self-insurer status of somebody who is promising to self-insure but failing their workers. Section 9 allows the AG, for monetary penalties against an employer who's supposed to cover...have coverage but, in fact, is flying under the radar and doesn't have coverage. Attorney General can bring an action for a failure to comply with claims handling standards, voc-rehab services and costs. And what happens under this is that the Attorney General is permitted only upon the request of the compensation court administrator to initiate these procedures. So it starts with the administrator, goes to the AG and then comes back to the court. There are two other smaller changes that relate to bills that were before the committee and reported out. One was by Senator Loudon, LB 395, and it says that when ranchers and farmers help one another on an occasional basis, that kind of labor is exempt from the workers' comp law. Senator Burling had LB 532, and we've incorporated a piece of provision that says...it clarifies that an employer who is a farmer or a rancher and who does not employ enough people to be required to provide workers' compensation must still provide unrelated employees a specific notice of this fact at the time of hire. They will not have to require related employees with that notice of the fact at the time because there is no hiring at that point. So I would ask for the adoption of AM1671.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the Landis amendment, AM1671, to LB 13. Open for discussion. Senator Cunningham.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. As Senator Landis stated, these bills all were heard in the Business and Labor Committee. And LB 12, the first one, the majority of this amendment, came out of committee with a 6 to 0 vote. And I don't have the numbers on the other two but they were supported by the committee. So I do stand up in support of this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. Further discussion on the Landis amendment? Seeing none, Senator Landis...Senator Landis waives closing. The question before the body is adoption of AM1671 to LB 13. All in favor of the motion vote aye; those opposed, nay. The question before the body is

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LB 13A, 13

the Landis amendment, AM1671, to LB 13. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Landis' amendment.

SENATOR CUDABACK: The Landis amendment has been adopted.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Back to discussion of advancement of LB 13. Senator Landis, there are no lights on. You may close if you care to.

SENATOR LANDIS: Thank you, Senator Cudaback. These put together, the two companion bills brought to this body by the workers' comp court, it distinguishes the administrative from the judicial function, and then it creates an enforcement mechanism. And the Business and Labor Committee was able to package those together in such a way as to complete all of those pieces of public policy. I endorse their work. I ask for the advancement of LB 13.

SENATOR CUDABACK: Thank you, Senator Landis. All in favor of LB 13 advancing to E & R Initial vote aye; all those opposed to the advancement vote nay. We're voting on the advancement of LB 13. Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB 13.

SENATOR CUDABACK: LB 13 advances. We will now pass over LB 237. We will now go to LB 13A.

CLERK: Mr. President, LB 13A is a bill by Senator Landis. (Read title.)

SENATOR CUDABACK: Senator Landis, to open.

SENATOR LANDIS: Particularly for the cost of the enforcement part of the bill, we need to have some monies for an Attorney

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LB 13A, 465

General, and here's how the money comes about. It's a cash fund. And understand, the Workers' Compensation Court is essentially a cash-funded agency from the way it does its own business. It receives it through fees and costs. And they're going to take \$75,000 of their money and fund the AG's position in 2005-2006, and \$73,000 and fund that position in 2006-2007. The total is about \$150,000. It is for the enforcement function of the bill, and it is a cash fund, not General Fund, out of the monies of the workers' comp court. I would ask for the advancement of LB 13A.

SENATOR CUDABACK: You've heard the opening on LB 13A. Open for discussion. Seeing no lights on, Senator Landis, did you wish to close? The question before the body is, shall LB 13A advance to E & R Initial? All in favor vote aye; those opposed, nay. We're voting on advancement of LB 13A. Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the advancement of LB 13A.

SENATOR CUDABACK: LB 13A does advance. As stated earlier, at the request of the Speaker, we pass over LB 237. Mr. Clerk, LB 465.

CLERK: LB 465, a bill by Senator Redfield. (Read title.) The bill was introduced on January 13, referred to the Banking, Commerce and Insurance Committee, advanced to General File. There are committee amendments, Mr. President. (AM0446, Legislative Journal page 574.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Redfield, to open on LB 465.

SENATOR REDFIELD: Thank you, Mr. President and members of the body. LB 465 has been introduced before. It has been advanced by the Banking and Insurance Committee unanimously, both this year, last year and previously. It is an issue that we've talked about seriously because at one time we were worried about what people might do to protect their assets during a bankruptcy. And clearly, the intent of our law should not be to

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allow people to fraudulently protect their assets, but we also recognize that in today's world, people are one medical crisis away, many times, from bankruptcy. I distributed earlier an article talking about people who are insured, who are employed, who end up, even though they believe that they are covered in a catastrophic health situation, may in fact find, with their deductibles and other costs and the fact that they may not even be able to work through that illness, find themselves, through no fault of their own, having to file for bankruptcy. This bill is about protecting assets that these people may have set aside to protect their life--life insurance and annuities. There are many people who are self-employed in this state. There are many people like myself who have gone from one job or another as their family demands have demanded their time, and so because of that, they do not have at their disposal a pension plan. And for those people, the only type of pension plan they have available is investment in an annuity or a life insurance program. So what the bill would actually do with the committee amendment, it would protect \$100,000 of cash value for a life insurance or an annuity. And that is all. Now, where the protection is, is that we have created a look-back, and the bankers have worked with us on this, so that in fact there's a look-back provision that someone cannot plan several years out to lay aside and protect this money. I believe it's reasonable. The bankers felt it was reasonable, and certainly the Committee of Banking and Insurance agreed with that. So I believe that it's a fair and reasonable proposal that is before you. And we will have a committee amendment which Senator Mines will address. The one thing I would tell you, besides a medical crisis, people often face a layoff in their work situation, as we've seen a downturn in our economy. People have a divorce situation. Sometimes there are tragedies that enter our people's lives and, through no fault of their own, they find themselves at a very last resort filing for bankruptcy. It would be shortsighted for the state not to protect these assets that will actually provide for their retirement in later years. As we all know, the cost of nursing homes are very high and it falls back onto the state and the federal government and Medicaid programs, as well as the other kinds of assistance for people who are low income. So I would ask for your advancement of the bill. It has been advanced unanimously repeatedly. It

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was part of the committee amendment priority bill last year. It actually was stripped out only because we had to use that vehicle for a bill that became the Pac Life change so that we could move that company here. I would ask for your advancement today. Thank you.

SENATOR CUDABACK: Thank you, Senator. You've heard the opening on LB 465. As stated by the Clerk, there are committee amendments by the Banking, Commerce and Insurance Committee. Chairman Mines, you're recognized to open on AM0446.

SENATOR MINES: Thank you, Mr. President, colleagues. I open on AM0446 and it does strike the original section and replace Section 44-371 regarding insurance companies, and Section 44-1089, and that's regarding fraternal benefit societies. As a general rule, there's an exemption of all proceeds, cash value and benefits, and they're exempted from attachment, garnishment and other legal and equitable processes in this amendment. Subdivision (1)(a) does not...shows that these do not apply to an individual's aggregate interests that are greater than \$100,000 in all loan values or cash value of all life insurance contracts and in all proceeds, cash values and benefit accruing under all annuity contracts. So those are the exemptions: \$100,000 exemption, and life insurance contracts with proceeds, cash values, or benefits accruing under annuity contracts. As Senator Redfield mentioned, there is a three-year look-back, the loan value or the cash value of any matured or unmatured life insurance contracts or the proceeds, cash value or benefits that accrue under any annuity contract were established or increased; so within a three-year period prior to bankruptcy or within those...that three-year period prior to the entry against the individual of a money judgment. So as Senator Redfield had mentioned, there are those protections, and the committee amendment solidifies those. And I would urge the adoption of AM0446. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. You've heard the opening on AM0446 by Chairman Mines. Open for discussion. Senator Mines, there are no lights on. Senator Mines waives closing. The question before the body is adoption of the Banking, Commerce and Insurance Committee amendments, AM0446, to

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LB 465. All in favor vote aye; opposed, nay. The question before the body is the amendments offered by the Banking, Commerce and Insurance Committee to LB 465. Have you all voted who wish to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: Committee amendments have been adopted.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Discussion of advancement of LB 465? Senator Redfield, there are no lights on. You're recognized to close on LB 465.

SENATOR REDFIELD: Thank you, Mr. President. I thank you for the adoption of the committee amendment. Again, this has a three-year look-back. This is not for the person who is plotting to defraud anyone. This is just basic protection for people's life protection. Thank you very much. I would ask for your advancement.

SENATOR CUDABACK: Thank you, Senator Redfield. The question is, shall LB 465 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 465 to E & R Initial. Have you all voted on the question who care to? Have you all voted? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 465.

SENATOR CUDABACK: LB 465 advances. Mr. Clerk, LB 761.

CLERK: LB 761, by Senator Thompson and others. (Read title.) The bill was introduced on January 19, referred to the Government, Military and Veterans Affairs Committee, advanced to General File. I do have committee amendments, Mr. President. (AM0659, Legislative Journal page 729.)

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SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Thompson, to open on advancement of LB 761.

SENATOR THOMPSON: Thank you, Mr. President, members of the body. When the Foster Care Review Board was created in 1982, it was a small agency and the board itself consisted of seven members. Over the years, there have been changes to that board. In 1987, Senator Landis passed legislation to increase the membership to nine members and specified that three of the nine members be from local foster care review boards. In 1990, Senator Paul Hartnett passed legislation that specified that one of the remaining six members must be an attorney with legal expertise in child welfare. With the amendments that will follow, this...the bill has been changed to accommodate concerns of the Foster Care Review Board, and what is left is what the committee...and with one other amendment having a subsequent meeting after the committee amendment came out with the Chair of the Foster Care Review Board that I think is minor but a good addition to the bill. Senator Schimek and I have discussed that and I don't think it takes away from the intent of the Government Committee. But essentially, this bill will strengthen the Foster Care Review Board makeup, giving them expertise from a variety of areas that will be helpful in the execution of their prescribed duties. It keeps the three local members of Foster Care Review Board that is current statute. Now that doesn't mean that other members of the board who fit other categories cannot also be members of local foster care review boards, but it does keep the current statutory language that said at least three. It keeps the attorney with guardian ad litem experience which is part of current statute. The others, it adds to and specifies that the others be a pediatrician, a child psychologist, a social worker, and all of these the bill stipulates be licensed in the state of Nebraska; a representative of a statewide child advocacy group; a child advocacy center director, and currently it says coordinator and that will be changed to director, hopefully, if you adopt the amendment which will follow; a director, and this is another change of a court-appointed special advocate program, that is the CASA program; and a member of the public with a background in business or finance. This is an agency that has over a million dollars of state General Funds going into it, has a very

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important mission, and I believe these changes strengthen the board, and also recognize that it has become a state agency, gone from an advocacy position when it was created in 1982, to more of a state agency actually that it is now in terms of its mission and also in terms of its budget. So with that, I will close on this and be happy to answer any questions you may have.

SENATOR CUDABACK: Thank you, Senator Thompson. You've heard the opening on LB 761. There are committee amendments, as stated by the Clerk. The Chairperson of the Government, Military and Veterans Affairs Committee Schimek, you're recognized to open.

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I will be brief. Senator Thompson has done a good job outlining what the committee amendment does incorporate into the bill. I'll go over it just briefly again, and say that we spent a lot of time talking about this bill before we finally advanced it. I think we have it where we need to have it. It would ensure that the Foster Care Review Board would have 11 members. They are appointed by the Governor, approval by the Legislature. Three members of local foster care review board would be on it; a pediatrician; a child psychologist; a social worker; an attorney with experience as a guardian ad litem; a representative of a statewide child advocacy group; a child advocacy center coordinator; the director of a court-appointed special advocate program; and a member of the public with a background in business and finance. We ask that those come, to the extent possible, from each of the three congressional districts. I would recommend the adoption of the committee amendment.

SENATOR CUDABACK: Thank you, Chairperson Schimek. Mr. Clerk, please.

CLERK: Mr. President, Senator Thompson, AM1309. I have your note you want to withdraw AM1309.

SENATOR CUDABACK: It is withdrawn.

CLERK: Senator Thompson would move to amend with AM1644,

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Mr. President. (Legislative Journal page 1713.)

SENATOR CUDABACK: Senator Thompson, to open on AM1644 to the committee amendments.

SENATOR THOMPSON: Thank you, Mr. President. This is a suggestion from the Foster Care Review Board representatives who came to my office. The child advocacy centers are those agencies that we supported last year through the Governor's recommendation and the recommendation of the Appropriations Committee, by providing funding for a coordinator within our child advocacy centers. They are the places where children are brought for investigation of child abuse, so that they don't have to have repeated examinations and questioning from the variety of people from the system. And the suggestion would be that it not be the coordinator position but...because that is funded by the Department...through the Department of Health and Human Services--they are the pass-through agency for the funding--instead having it being the director of the center. So this just changes from coordinator to the director of the center. And I agreed with them on this suggestion. I think it's a good suggestion, and it wasn't one that came up before the committee met, and so it's new since then. But I think it's a good recommendation and I would ask for its approval.

SENATOR CUDABACK: You've heard the open on AM1644 by Senator Thompson. Open for discussion. Senator Wehrbein, followed by Senator Schimek.

SENATOR WEHRBEIN: Mr. President and members of the body, I support the amendment of Senator Thompson and the committee amendments, and will solidly support the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Schimek.

SENATOR SCHIMEK: Thank you, Mr. President. Ditto.

SENATOR CUDABACK: Any further discussion? Senator Thompson, there are no...Senator Thompson waives closing. The question before the body is adoption of AM1644 to the Government,

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Military and Veterans Affairs Committee amendments. All in favor vote aye; opposed, nay. We're voting on adoption of the Thompson amendment, AM1644. Record please, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments.

SENATOR CUDABACK: The Thompson amendment has been adopted. Anything further on the committee amendment, Mr. Clerk?

CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Open for discussion. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I only want to take a couple of minutes here to talk not just about the bill but about the Foster Care Review Board and the Department of Health and Human Services in general. I think this is a good bill and I support it, and I supported the amendment. But I don't think it goes far enough, and I'm basically saying I'm going to stay on course in keeping an eye on what's happening in some of these institutions, our foster care places, that we have in the state. I have had a couple of different senators on this floor come to me and talk to me about some of the abuse that has happened in some of these homes. I don't know who is overseeing these contracts that HHS now has on some of these homes. I know that people are getting abused, young people are getting hurt, both emotionally and physically. And I can tell you where some of it comes from. Being in this kind of work myself for 36 years and working with young people is we have a tendency in this industry, if you want to call it that, to hire young people that are just barely over the legal age themselves to work in these places because they'll work for that kind of money. And we have a lot of them, especially the males, who have a control problem and want to be in charge at all times, end up getting into power struggles. I've seen it happen over and over again. We need to make sure, as legislators, that we keep an eye on these agencies and how they are performing, and their rules and regulations that they write. It is life or death for some of these people and we know in this state we've had far too many young people die. The

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child death rate is better than it was, but not a whole lot. There should not be any. There is one particular agency that we contract with right now that I'm going to keep a very close eye on. The name of that agency is OMNI. You would not believe some of the calls that I've had from young people in them organization...that have been in their organization. It is imperative that we be responsible for our young people, and that means policing ourselves these agencies who take care of them. Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. Further discussion on the committee amendments? Seeing no lights on, Senator...Chairperson of the committee amendments waives off. The question before the body is adoption of AM0659, offered by the Government, Military and Veterans Affairs Committee to LB 761. All in favor vote aye; opposed, nay. Voting on adoption of the committee amendments to LB 761. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted. Anything further on the bill, Mr. Clerk?

CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Open for discussion of advancement of LB 761. Seeing no lights on, Senator Thompson, you're recognized to close.

SENATOR THOMPSON: Thank you, Mr. President, and thank you, Senator Pedersen for your comments. This is a very difficult and multifaceted area. The issue that you were talking about, training for youth service workers, incidentally was before I came to the Legislature. I was executive director of the Omaha Community Partnership, and one of our goals was to get that kind of training established. And a lot of work has been done in the Omaha area to provide better worker training, and I think that we're making some progress. But like a lot of things, it is a tremendously challenging area. And I think that this bill helps

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with the issues, and I understand your concerns for the placements that kids are in. And I think this professionalizes the board. It doesn't restrict people from local boards and serving on those professional positions either. I want to make that clear. But I hope that this will help us in our efforts to make the child welfare system the best that it can be. There are reviews internally within the department. There were reviews by the courts. There were reviews by the Foster Care Review Board. So we have lots of time and money invested into oversight. We need to get to the outcomes that we need. We need to get improvements. And we've made big investments in all those areas. And I hope that this bill, and I know that this bill, with your support, will help us bring a stronger level of expertise to getting that job done. Thank you.

SENATOR CUDABACK: Thank you, Senator Thompson. You've heard the closing on LB 761. The question is, shall LB 761 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 761. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 33 ayes, 1 nay, Mr. President, on the advancement of LB 761.

SENATOR CUDABACK: LB 761 advances. Next agenda item is LB 227. Mr. Clerk.

CLERK: LB 227, Mr. President, by Senator Louden. (Read title.) The bill was introduced on January 7, referred to the Government, Military and Veterans Affairs Committee for hearing, advanced to General File. I do have committee amendments, Mr. President. (AM0062, Legislative Journal page 441.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Louden, to open on LB 227.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I introduced LB 227 to make it possible for Nebraska to obtain federal grant funds to build state veteran cemeteries. The state veteran cemetery system is authorized in Nebraska statutes. Those who worked on this issue in the past wanted to

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be sure that the cemeteries would be built and supported with private funds and with federal funds. The plan has been to use the earnings of the veterans' cemetery endowment fund and in-kind contributions of services by city and county entities. This is the plan that makes the most sense for Nebraska and it would not be changed by LB 227. However, if Nebraska is to receive federal funds to build cemeteries, we must amend the statutes to remove the prohibition on General Funds going into the operation fund. The federal program will give states the money to build cemeteries; however, it won't do that if the state is absolutely barred from helping with maintenance. Those of us who want state veterans' cemeteries do not want General Funds for maintenance. I do not intend to come back here and ask for General Funds to maintain the cemeteries, and I do not intend to ask for General Funds for any phase of the construction, operation or maintenance of the cemeteries. What I intend to do is to continue working with private parties to raise the money to apply for federal grant money. The federal policy wasn't in place when Nebraska began working on the state veteran cemetery system. It was adopted by the federal program last spring. And as of last spring, no federal grant funds will be given to the states that cannot provide state funds to maintain a cemetery that was built with federal funds. That is why I introduced LB 227 this year. It is not an appropriations bill, and it will not generate an A bill. The current statute governing the cemetery system prohibits General Funds going to each of the three funds set up to build and maintain the cemeteries: the construction fund, the endowment fund and the operation fund. No General Funds can go into the construction fund and no General Funds can go into the endowment fund, and even no General Funds can go into the operation fund. The change that LB 227 makes is to remove the last of these three prohibitions on General Funds. Under LB 227, there is still a prohibition on General Funds going into the construction fund, and there's still a prohibition on General Funds going into the operation fund. The LB 227 also clarifies how the earnings of the endowment fund are to be used. Under current statutes, the only funds that can go into the operation fund are the earnings of the endowment fund. This means that no private funds can be contributed to the endowment fund. And this is not what I believe was intended when the fund was established in statutes.

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I believe the intention was to have donations and contributions to help with the endowment fund. The intent was to protect the principal of the endowment fund. Language offered in the committee amendment will do that. Senator Schimek has a committee amendment to LB 227.

SENATOR CUDABACK: Thank you, Senator Louden. You've heard the opening. There are committee amendments, as stated. Chairperson of the Government, Military and Veterans Affairs Committee Schimek, you're recognized to open.

SENATOR SCHIMEK: Thank you, Mr. President and members. This was an amendment that we also worked on for quite a while. Senator Louden kind of drew us kicking and screaming along the way here, but we finally arrived at something I think works for the endowment fund and for Senator Louden and for the committee. The committee amendment eliminates the original provisions in the bill, allowing the Legislature to appropriate not more than \$100,000 in a fiscal year to the Nebraska Veteran Cemetery System Operation Fund. It also eliminates the current prohibition of remitting General Fund dollars to the operation fund, as Senator Louden just mentioned. Finally, the committee amendment clarifies that no portion of the principal of the Nebraska Veteran Cemetery System Endowment Fund will be expended for any purpose except investment. With that, Mr. President, I'd be happy to try to answer questions.

SENATOR CUDABACK: Thank you. There are committee...or there are amendments to the committee amendment. Mr. Clerk, please.

CLERK: Senator Wehrbein would move to amend the committee amendments. (AM0931, Legislative Journal page 1055.)

SENATOR CUDABACK: Senator Wehrbein, to open on your amendment to the committee amendments.

SENATOR WEHRBEIN: Thank you, Mr. President and members. This amendment does a very simple thing. It reduces the amount of money necessary to fund the maintenance of a cemetery. As it is, it says that 125 percent, and this reduces that. It still...it reduces it from \$120 million necessary to endow it

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down to \$10 million to \$15 million. It's unnecessarily high, the level of endowment that was placed in the bill, and this will be raised by private funds. I've been involved in this also, and it appears to me that this will be ample money for an endowment to properly provide for the maintenance of this cemetery over the necessary years of its life. And so it simply reduces that amount. One hundred and twenty percent is unnecessarily high, or in this case \$120 million, so I'm asking that this be reduced to a more reasonable number. There is no question in the minds of those (inaudible) be raised by private money and that it can now go forward until that money is raised, and it will be a more logical and moderate amount of money.

SENATOR CUDABACK: Thank you, Senator Wehrbein. You've heard the opening of the Wehrbein amendment to the committee amendments to LB 227. Open for discussion. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. I think I would call your attention to the explanation of the amendment to the bill as provided in the committee statement. And there's one statement there I think that you should be aware of and that's the last sentence in the first paragraph which says this amendment also eliminates the current prohibition of remitting General Fund dollars to operation funds. And I think this is a substantial change in policy for the state of Nebraska. We, I guess, have assumed that these matters would be handled by contributions and things of that nature, and it's been a long time that we have had the prohibition against using General Funds for this purpose. Senator Loudon has indicated that there has been a change in federal funding of the cemeteries now and that they require the use of General Funds. So I just want to call your attention to the fact that we have had this prohibition. This eliminates that prohibition and not just for this bill but for any other of the veterans' cemeteries. With that, I just wish to advise you in that manner. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Further discussion on the Wehrbein amendment? Senator Wehrbein, there are no lights on. You're recognized to close. Senator Wehrbein

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waives closing. The question before the body is adoption of AM0931, offered by Senator Wehrbein to the committee amendments. All in favor vote aye; opposed, nay. We're voting on adoption of the Wehrbein amendment to the committee amendments to LB 227. Have you all voted on the question who care to? Have you all voted who care? Record please, Mr. Clerk.

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Wehrbein's amendment.

SENATOR CUDABACK: The Wehrbein amendment has been adopted.

CLERK: I have nothing further to the committee amendments, Mr. President.

SENATOR CUDABACK: Back to discussion of the committee amendments offered by the Government, Military and Veterans Affairs Committee. Seeing no lights on, Chairperson of the committee Schimek, you're recognized to close. Senator Schimek waives closing. The question before the body is adoption of the committee amendments to LB 227. All in favor vote aye; opposed vote nay. We're voting on adoption of the committee amendments. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 35 ayes, 0 nays, Mr. President, on adoption of the committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Discussion on advancement of LB 227? Seeing no lights on, Senator Loudon. Senator Loudon waives closing. The question before the body is, shall LB 227 advance to E & R Initial? All in favor vote aye; opposed vote nay. The question before the body is advancement of LB 227. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 227.

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SENATOR CUDABACK: LB 227 advances. Mr. Clerk, next bill is LB 256.

CLERK: Mr. President, LB 256, a bill by Senator Price. (Read title.) The bill was introduced on January 10, referred to Health and Human Services, advanced to General File. I do have committee amendments, Mr. President. (AM0542, Legislative Journal page 745.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Price, to open on LB 256.

SENATOR PRICE: Thank you, Senator Cudaback. LB 256 restructures the board governance of advanced practice registered nurses by creating one standard for their regulation under a single board. This type of umbrella legislation is standard across the country and exists in almost every state. It represents a consensus of advanced practice nurses across Nebraska and the United States. Different drafts of LB 256 have been presented to the Health and Human Services Committee many times over the years, but it has never made it to the floor until this year. The bill has been revised several times and now has the support of all groups involved, including the Nebraska Medical Association which has opposed the bill in the past. LB 256 establishes the free-standing advanced practice registered nurse board. This board will oversee the licensing and scope of practice for the four advanced nursing certifications which include clinical nurse specialists, certified nurse midwives, certified registered nurse anesthetists and nurse practitioners. This amendment does not intend to change the scope of practice for any nursing specialty. As you can see, this bill is over 100 pages long and it is really quite simple though. First of those...first of all for you who are not familiar with nursing classifications, all of the nurses affected by this legislation are registered nurses who have received additional graduate level education and have been certified in a particular specialty. It is important to clarify some terminology in this bill. Under LB 256, current advanced practice registered nurses will be called nurse practitioners. All registered nurses who are certified as

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clinical nurse specialists, certified nurse midwives, certified registered nurse anesthetists, or nurse practitioners will be licensed as advanced practice registered nurses. Essentially, APRN will become an umbrella term for these four certifications. This bill also defines the scope of practice for clinical nurse specialists, something that has not yet been done by statute. There is no intention to change the current scope of practice for CNSs. No major changes have been made to the scope of practice for other nurses either. Current APRNs are affected in name only in this bill. The language is simply changed to nurse practitioners. Currently, there are different advisory boards that provide governance for each of the different advanced practice roles. Each of these boards has a different relationship with the Board of Nursing, the Board of Medicine and Surgery, and the Board of Health. In the case of nurse midwives, there is no clear advisory process at all. LB 256 eliminates this confusion and creates an independent board that will oversee all advanced practice nurses as one group. Membership on the board will include representatives from all four APRN certifications, physicians, and public members. This is a bill I strongly believe in. Advanced nurses deserve to be recognized for their expertise and to be regulated by a board that is familiar with their needs and special areas of practice. Many people have put many, many hours into this bill over the last few years. I hope you will take into consideration the process this bill has gone through and the many people who have been consulted, including the Medical Association. This idea is not new and I hope this year, now that all parties involved have agreed to this version of the bill, we can see it come into fruition. As you can see on your committee statement, the Nebraska Medical Association was the only group to oppose this bill in committee. The committee amendment settles any disagreement the Medical Association has with this bill. They have come on board with us. They are in full support of LB 256 with the committee amendment. I strongly oppose the adoption of amendments AM0841 and AM0842, which will be introduced and discussed by Senator Smith. These amendments contain contentious issues that were included in LB 338, which was killed this year by the Health and Human Services Committee. But in discussing with Senator Smith, he is going to visit with about...us about these bills, the amendments, and then he agrees

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to withdraw them. Thank you for your time. I ask your support of LB 256 and the committee amendment, and I would welcome any questions that you would have. Thank you.

SENATOR CUDABACK: Thank you, Senator Price. You've heard the opening on LB 256. There are committee amendments, as stated by the Clerk. Chairperson of the Health and Human Services Committee, you're recognized to open, Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. And Senator Price is absolutely right that there was a lot of hours and a lot of discussion and negotiation that went on this bill. The committee amendment, AM0542, makes technical corrections to the bill and it changes membership on the Board of Advanced Practice Registered Nurse...Nurses from the green copy of the bill. After the effective date of the act, the board would consist of one nurse practitioner; one certified nurse midwife; one certified nurse anesthetist...registered certified nurse anesthetist; one clinical nurse specialist; three physicians, one of whom has a professional relationship with a nurse practitioner, one of whom has a professional relationship with a certified nurse midwife, and one who has a professional relationship with a certified nurse anesthetist; and then two public members. The Nebraska Hospital Medical Liability Act, Section 17 through 19 of the bill, the amendment makes technical corrections to that area only and deletes language that would have brought other advanced practice registered nurses within the definition of "healthcare provider" for purposes of the act. The amendment adds new provisions to clarify the scope of the practice of registered nurses to provide that evaluating responses to interventions includes, but is not limited to, performing physical and psychological assessments of patients under restraint and seclusion, as required by federal law, if the nurse, the registered nurse, has been trained in the use of emergency safety intervention; Section 24, page 34 of the bill. The addition reflects current practice that was made necessary by federal law which required explicit permission for such activities in state law. I would just ask for adoption of the committee amendment. Thank you, Mr. President.

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SENATOR CUDABACK: Thank you, Chairman Jensen. You heard the opening on committee amendments. Mr. Clerk, motion, please.

CLERK: Mr. President, the...Senator Smith has AM0842 as an amendment to the committee amendments. (Legislative Journal page 917.)

SENATOR CUDABACK: Senator Smith, you're recognized to open on your motion to the committee amendments.

SENATOR SMITH: Thank you, Mr. President, members. I rise in support of LB 256 and the amendments that are necessary to make sure that it passes. I would argue that I am the greatest supporter of advanced practice nursing in this body and that's why I do not seek to delay, unnecessarily so, LB 256. And while I'm not done speaking, I would ask the Clerk to withdraw both of my amendments on the committee amendment, and also express some concern that I have on the process here. It has always been my desire, in committee and otherwise, that if there's a controversial issue before a committee and there's some commonality between both sides, that the introducer of that bill would have the opportunity to work that out. And I'm wondering if Senator Jensen would yield to a question.

SENATOR CUDABACK: Senator Jensen, would you yield?

SENATOR JENSEN: Yes, I will.

SENATOR SMITH: Thank you, Senator Jensen. I know that when we've had some discussions on this that your vote, along with Senator Johnson, Senator Howard and Senator Byars, to kill the amendments that were actually far greater in impact than the two amendments before us, and I was not allowed the opportunity to find common ground between the opposing sides and there was a majority of the committee that did not want to afford me the opportunity to work that out. Is that an accurate analysis?

SENATOR JENSEN: Well, certainly it was a committee vote and, yes, the committee decided to IPP the...your measures that you brought forward.

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SENATOR SMITH: Right. And then you suggested, after that, that I should amend some smaller issues, the items of agreement perhaps on most of the parties involved, to the committee amendment on LB 256. Is that accurate?

SENATOR JENSEN: I said that there could be possible opportunities to do that and perhaps on LB 256 or some other measures that we had, but you know how the session goes and how we've been moving. But I think there's an opportunity, maybe not this year but perhaps next year, to look at your issues concerning midwives. I know that's certainly something that you have very strong feelings about. The committee doesn't want to go there just yet, but persistence is always a virtue that seems to sometimes win over, so I would encourage you to do that. Was there anything else that you wanted?

SENATOR SMITH: Okay. Perhaps what was originally an encouragement of amending the bill perhaps has turned into a discouragement? Is that...(laugh)

SENATOR JENSEN: (Laugh)

SENATOR SMITH: ...is that an accurate analysis?

SENATOR JENSEN: Well, no, I think everybody should use every opportunity they can to forward their agenda. There isn't any question, however, when a bill is "IPPed" it makes it a little more difficult to bring it forward and to add it on to another existing measure. And that's where we are on this particular issue.

SENATOR SMITH: Thank you. I will reiterate my support for advanced practice nursing. I believe that as we have access issues across Nebraska, I find advanced practice nurses to be a very thorough group of folks moving in a direction of best practices, and as we are looking at technology, as we are looking at meeting the needs of various parts of Nebraska, we can accommodate the expansion of advanced practice nursing. And I know that might make the Medical Association, the doctors such as Senator Johnson, really nervous when a nurse with a lot of clinical experience can do some of the same things that a

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physician has been trained to do and has the exclusive rights to practice at this time. I hope that we can have an open mind on this. We need to. It gets my attention, with great emphasis, when I see primary care providers as nurse practitioners. Members of my family see a nurse practitioner as their primary care provider. They do a good job. We need to allow that in a greater scope across Nebraska because, while it may not pad the pockets of some, the end result is that there's better care available and there's more access, oftentimes at a reduced cost. And, to me, that is a winning scenario. Thank you, Mr. President.

SENATOR CUDABACK: Senator Smith are you withdrawing AM0841 and AM0842?

SENATOR SMITH: Yes.

SENATOR CUDABACK: They are withdrawn. Back to discussion of...anything further on the committee amendments, Mr. Clerk?

ASSISTANT CLERK: Nothing further pending to the committee amendments, Mr. President.

SENATOR CUDABACK: Back to discussion of the adoption of committee amendments. Senator Smith, your light was next. Did you wish to...Senator Smith waives his opportunity. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. I rise in support of Senator Price's bill and I rise in support of the committee amendments, and I would have supported Senator Smith's amendments and here's why. We had a hearing on Senator Smith's bill. The opposition to the bill, in my opinion, were extremely unprofessional. They were...they showed a very sincere lack of consideration for the very individuals who are intendants in support of Senator Smith's bill and, in fact, they went as far as testifying on eight words in an eight-page bill about how much this bill should be defeated. And I have no doubt that some of their testimony proceeded the Health Committee in killing Senator Smith's bill, prohibiting him the same opportunity that we provided other

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members of the Legislature to work out deals on their bill. So I would have supported Senator Smith's bill or amendments for those reasons because I do believe that what was in the amendments before us were substantially different than the testimony that we heard at the hearing. And I've sat on the Health Committee for five years and I've listened to different groups come before the Legislature and before our committee with concerns and ideas and, generally, they're valid. But I have to admit that on Senator Smith's bill, after not only his attempt but Senator Landis' attempt in the past to have the discussion necessary to have an honest, political and policy debate on this issue has been denied. And so I am encouraged to hear Senator Jensen's comments that he hopes that Senator Smith proceeds, because to this point we have not got to that level. We have not got to the policy level on what it is that we should be discussing. We have got to turf battles. We've got to discussions about people who have ideas about what happens in third world countries on one issue, and on the other side they're willing to adopt them and embrace them wholeheartedly. So I think Senator Smith was in the right. I think it was unfortunate and I think it was ill-advised what the committee did to his proposal. I do hope that Senator Smith proceeds accordingly. I hope that those individuals who seek to scuttle and to bring irresponsible comments to the members of the Health Committee that children who are born at home have some form of defect or some other issue, that is irresponsible, in my opinion, that a licensed professional would come before our committee and try to make those assumptions in regards to the increased costs in special education or other areas. It was flat-out disrespectful and if that ever happens again I hope that our Committee on Health and Human Services will act accordingly. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Dwite Pedersen. Mr. Clerk, first, you have an announcement?

ASSISTANT CLERK: Thank you, Mr. President. The Education Committee will meet in Executive Session in Room 2022 now; that's Education in 2022 now.

SENATOR CUDABACK: Now you may go, Senator Pedersen, and I'm

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sorry about that. You're recognized.

SENATOR DW. PEDERSEN: Thank you, Mr. President. Members of the Legislature, I stand in support of LB 256. I just want to caution the floor for now, and not necessarily now, but in the future. In the 13 years I've been here, we need to be very careful that we don't turn the Legislature into a medical school. We have medical schools, two wonderful ones, in the state of Nebraska. If you want to be a doctor, go to the medical school. If you want to be a nurse, you go to nursing school. If you want to be an advanced nurse, you take that advanced nursing training. But do not forget that we have doctors because they need to be doctors, and nurses because they need to be nurses. I have not...I've always worried about the fact in this Legislature, and this is not necessarily this bill, but a big worry of mine is from the first year I was here that we have more and more people come in and want to broaden their scope of practice and, basically, work into the medical field and become physicians without going to medical school. Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. Further discussion of the committee amendments? Seeing no lights on, Senator Jensen, Chairman of the committee, you're recognized to close. Senator Jensen waives closing. The question before the body is adoption of AM0542, offered by Health and Human Services Committee. All in favor vote aye; opposed, nay. Voting on adoption of the committee amendments to LB 256. Have you all voted on the committee amendments who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Discussion of advancement of LB 256? Senator Price, there are no lights on. You're recognized to close on

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LB 256, 256A, 693

advancement of LB 256.

SENATOR PRICE: I thank the body for this discussion. I thank Senator Smith. I urge your vote of LB 256.

SENATOR CUDABACK: You've heard the closing on LB 256. The question before the body is, shall LB 256 advance to E & R Initial? All in favor of the motion vote aye; those opposed to the motion vote nay. Voting on advancement of LB 256. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 256 advances. Now go to LB 256A.

ASSISTANT CLERK: LB 256A was introduced by Senator Price. (Read title.)

SENATOR CUDABACK: Senator Price, to open on LB 256A.

SENATOR PRICE: Oh thank you. You will see in the fiscal note there's a request for \$32,315, but also with the increase in licenses then this will cover the cost, so actually it will be a wash. And so I urge your support of the A bill to LB 256. Thank you.

SENATOR CUDABACK: You've heard the opening on LB 256A. Open for discussion. Senator Price, seeing no lights on, did you wish to close? Senator Price waives closing. Question before the body is, shall LB 256A advance to E & R Initial? All in favor of the motion vote aye; those opposed to the motion vote nay. The question is advancement of LB 256A. Record please, Mr. Clerk.

ASSISTANT CLERK: 30 ayes, 0 nays on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 256A advances. Mr. Clerk, next legislative bill, LB 693.

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LB 693

ASSISTANT CLERK: LB 693 was introduced by Senator Landis. (Read title.) Bill was read for the first time on January 19, referred to the Banking, Commerce and Insurance Committee. The committee reports the bill to General File without committee amendments.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Landis, to open on LB 693.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, there is a federal, not state, federal business tax credit that can be used to try to leverage money on a patient capital, slow, long-term loans into distressed areas that Nebraska does not now make great use of. It's in the federal tax code. It has no impact on the state tax code. What it requires is somebody at the state level to go off to the federal treasury and to get, essentially, tax credit authority for this jurisdiction in which that tax credit authority is given to an entity in this state that can then assist in the administration of the tax credit. And this is the request for our Nebraska Investment Finance Authority, NIFA, to become that agency who can go off and get these federal treasury tax credits, called new market tax credits, because essentially you're looking to develop new markets in census tracts that are under economic stress and on a patient capital basis. So NIFA creates a competitive grant. It goes to the Treasury Department. The feds look through it. If it winds up winning the competition, NIFA gets to administer the tax credit. So what they'll do is they'll essentially contract on a cost recovery basis with an LLC, a limited liability corporation, of their own creation, essentially. The tax credits will go to the investment coordinator. The investment coordinator will go to lenders, local lenders basically, in saying will you give us some money, will you...will you put money into the projects that we invest in? In return, you will get your principal back, you will get the interest on your principal, and you'll get some tax credits. If the lenders come through with money, you now...and, by the way, you do that because the lenders would get an acceptable amount of return for their investment in what might otherwise be not particularly attractive places to lend. Small businesses, agribusinesses,

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ineligible census tracts, places in which poverty rates are greater than 20 percent or the median family incomes are less than or equal to 80 percent of the area median family income, those kinds of businesses would go to the investment consolidator, they would get loans and they would repay those loans. What makes this work? What makes it work is that lenders who would not otherwise participate will, because of the federal tax credit, make loans to the investment consolidator, that thereby giving the investment consolidator a basis upon which to lend to distressed areas. Sixty-three counties, for example, have areas in them in this state that would qualify under the standard, and about fifty counties almost entirely the census tracts would qualify. It's for patient capital and, by the way, the loans have to be for seven years or longer. They're not quick turnaround loans. These are investments for a period of time to get a chance to get up and running for small business and agribusiness in financially stressed areas for about 63 counties in the state. NIFA wants to do that. They want to become the administrator, if you will, that would go off or at least have permission to go off and seek, on a competitive basis, these federal tax credits. These tax credits will not come to us unless there is somebody in Nebraska attempting to get it. And, by the way, it doesn't have to be a public agency or a quasi-public agency. It could be a private one. But in the history of these tax credits, only once has Nebraska made use of them and it was by a private firm who used it for an operation in Omaha as well as five other states. So they put one deal together and they used some of Nebraska's portion of the new markets tax credits. Now, if we don't use them, they will go back to the treasury and be administered in other states, and there are states that make heavy, heavy use of them, Wisconsin among them. This was a request for NIFA to have this authority and it has no impact on state revenues in any way, since it's not a state tax credit. Hopefully, if it engenders businesses to be successful in economically stressed areas, it will have a positive impact on Nebraska's revenue. It was advanced unanimously by the Banking, Commerce and Insurance Committee. I would ask for the advancement of LB 693.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on LB 693. There are no committee amendments. We'll go

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right to the discussion of advancement. Senator Mines, followed by Senator Stuthman.

SENATOR MINES: Thank you, Mr. President. As Senator Landis said, there were no amendments from committee. Committee realize...or recognizes that this...the new market tax financing package is an excellent way for good deals to become very good deals, and without this...I think there's just a great opportunity for our state to advance under the NIFA administered plan. So again, the committee advanced, 8-0, and there were no amendments, and the committee supports LB 693. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I'm also very supportive of this, but I would just like to ask a couple of questions of Senator Landis, if he would be willing to respond.

SENATOR CUDABACK: Senator Landis, would you respond, please?

SENATOR LANDIS: Uh-huh.

SENATOR STUTHMAN: Senator Landis, how well is the NIFA program utilized in our state in these counties for agribusiness, agriculture, or things that they can loan money to? Is it...is it very well utilized? Is it accepted? Or is there a problem with it?

SENATOR LANDIS: We had a period of time when we had problems with NIFA and it was about 10 to 15 years ago, and one of the very early difficulties in the Banking, Commerce and Insurance Committee 15 years ago, when I was first there, was trying to sort out the things that they did well from the things that they did not do well, and there was a blemish in that history. It...we have since done much better on that score. NIFA has a terrific track record border to border, county to county, all parts of the state, on first-time homebuyers. They do a variety of other kinds of things as well, some of them more successful than others, but that would be their long suit.

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SENATOR STUTHMAN: Okay. Thank you. That is the answer I was looking for, because I had heard rumors at one time, you know, that it was not very well utilized because of problems with it. But I will agree that I think things have been ironed out and it's going right, so I am in very much support of this. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion? Seeing none, no lights on, Senator Landis, you're recognized to close on LB 693.

SENATOR LANDIS: Thank you, Mr. Speaker. I've had private communications. This is a relatively complex area and if you want to seek assurances and thoughts about what would be good for the state between now and Select File, I think that would be wise. There may be elements in the lobby who want to do the same thing; fair enough. We still have time for analysis between now and Select File for those of you who want questions answered. I would ask for the advancement of LB 693 today and understand that we may seek greater understanding between now and Select File on the merits of this idea. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Landis. You heard the closing on LB 693. The question before the body is, shall LB 693 advance to E & R Initial? All in favor vote aye; those opposed, nay. Question before the body is advancement of LB 693. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 25 ayes, 0 nays on the motion to advance, Mr. President.

SENATOR CUDABACK: LB 693 advances. We now go to LB 557.

ASSISTANT CLERK: Mr. President, LB 557 was introduced by Senators Beutler and Landis. (Read title.) Bill was read for the first time on January 18, referred to the Revenue Committee. That committee reports the bill to General File with committee amendments. (AM0785, Legislative Journal page 827.)

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SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Beutler, to open on LB 557.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, this bill makes a change in that part of the lodging tax law that has to do with County Visitor Improvement Funds. You may recall that Senator Louden, through a lot of hard work a couple of years ago, in fact we worked on it together a little bit, got the Visitors Improvement Fund in place for all counties in the state. Douglas County had it and, through Senator Louden's initiative, all counties in the state can now have access or can use, can levy a 2 percent lodging tax for the purposes of expanding and improving facilities and existing visitor attractions and for construction of new attractions. What the main change that the bill makes is that it would allow a county, if it so chose, it provides flexibility to the county to put some or a part of or all of, for that matter, that improvement fund money into one or two larger projects and then it allows for bonds to be issued, not exceeding 20 years, and to pay those bonds you can pledge the proceeds of the lodging tax from the improvement fund. So it is designed...there is additional language in here about bonding, but these bonds would not be...would not be general obligation bonds of the counties, but to be solely secured by the pledge of the revenues from the lodging tax. And this is to provide flexibility so that some counties, such as Lancaster County, for example, is thinking in terms of at least one larger project that they can do under this...under these particular provisions, and this bonding provision would be extremely helpful in terms of facilitating that larger project. The amendment was unopposed in...the bill was unopposed in committee. It was brought to me by our local chamber of commerce. It's supported by the Nebraska Travel Association and the Nebraska Association of Visitors...Conventions and Visitors. The committee put one very large limiting provision onto the bill, and I'll let Senator Landis explain that committee amendment which contains the limitation. Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. You've heard the opening on LB 557. There are committee amendments, as stated.

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Chairman of the Revenue Committee Landis, you're recognized to open. Senator Landis, you're recognized to open on the committee amendment to LB 557.

SENATOR LANDIS: Thank you. In addition to the state 1 percent lodging tax, counties have an authority to levy two additional lodging taxes. The first is a maximum 2 percent Visitors Promotion Fund tax, which like the state tax is used to advertise and otherwise promote visitor attractions in the county. It's been around for many years. The second tax is a maximum 2 percent of a Visitors Improvement Fund tax, and that's for expanding or otherwise improving previously existing visitors' attractions. The additional tax has been available and used by Douglas County for many years, but only recently become available to all counties in Nebraska, thanks to Senator Loudon's bill of last year. LB 557, as introduced, would have amended both of those county taxes to allow their use for new construction of visitor attractions; however, under AM0785, it would strike Section 1 which dealt with the Promotion Fund so that it would be unchanged by the bill, and under the committee's amendment the Visitors Promotion Funds would still not be used for construction. The committee amendment would also limit the bonding authority to an amount not to exceed the equivalent of 1 percent of the tax levied for the visitor attraction fund instead of the whole amount. So cut out the application of the other ones and limited the impact to 1 percent, and on that basis I believe Senator Beutler was prepared to live and the committee was prepared to act. I ask for the adoption of the Revenue Committee amendment.

SENATOR CUDABACK: You've heard the opening on Revenue Committee amendments to LB 557. Open for discussion. Senator Landis, there are no lights on. Senator Landis waives closing. The question before the body is adoption of AM0785, offered by the Revenue Committee. All in favor vote aye; opposed, nay. Voting on adoption of the Revenue Committee amendments to LB 557. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of committee amendments, Mr. President.

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LB 500, 557, 573

SENATOR CUDABACK: The committee amendments are adopted. Anything further on the committee amendment or on the bill, Mr. Clerk?

ASSISTANT CLERK: Nothing further, Mr. President.

SENATOR CUDABACK: Back to discussion of advancement. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I support this, the bill that Senator Beutler has brought forward. I think this is something that we can do to help promote our tourism industry in Nebraska, and I think it's worked quite well with him working to have this set up so that not only the money can be used for improving existing facilities, but it also can be used to perhaps build facilities in the future. I would like to see LB 500 funded with something on the order of this type of thing. I think there's probably enough money available if some of the counties can go together and fund something like that. So I have my support for LB 557. Thank you.

SENATOR CUDABACK: Thank you, Senator Louden. Further discussion on advancement? Seeing no lights on, Senator Beutler, you're recognized to close on the advancement. Senator Beutler waives closing. The question before the body is, shall LB 557 advance to E & R Initial? All in favor vote aye; those opposed, nay. Voting on advancement of LB 557. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays on the motion to advance the bill, Mr. President.

SENATOR CUDABACK: LB 557 advances. Mr. Clerk, LB 573.

ASSISTANT CLERK: LB 573 was introduced by Senator Dwite Pedersen. (Read title.) The bill was read for the first time on January 18 of this year, referred to the General Affairs Committee. That committee reports the bill to General File with committee amendments attached. (AM0091, Legislative Journal

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LB 573

page 562.)

SENATOR CUDABACK: Senator Dwite Pedersen, you're recognized to open on LB 573.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. LB 573 is a bill that was brought to me on behalf of...by...on behalf of the State Racing Commission. It reflects an agreement made by the Nebraska racetracks, the horsemen and breeders to provide additional revenue to the Racing Commission. This increase in funding is necessary to cover a projected shortfall for the current fiscal year, and deficit projections for the future. The bill basically reflects the industry's agreement to tax themselves to pay for the services they receive from the Racing Commission. The bill accomplishes this by increasing the funding currently provided for the Racing Commission from .4 of 1 percent of the gross wagers to .64 of 1 percent of the gross sum wagered by the parimutuel method at each licensed racetrack during the calendar year. In addition to the increase in funding taken from the gross sum wagered, the bill permits racetracks to increase the total amount withheld from exotic wagers from the current 24 percent to 25 percent. For those of you who are not familiar with the racing industry, exotic wagers are those wagers that are anything other than win, place, or show. Examples would be exactas and trifectas. Then this increase in funding for the Racing Commission will not only offset the expected shortfall, but will also provide funding to permit the Racing Commission to discontinue reimbursement of compensation for the state steward, official veterinarian, and test barn assistants, and will provide that the Racing Commission, rather than the racetracks, can perform drug testing of horses. This increase in funding will allow the Racing Commission to provide a drug testing level consistent with current nationally recommended regulations and further discourage the use of illegal drugs and medications in the horses. The bill also increases the disciplinary authority of the Racing Commission from the current maximum fine of \$1,000 to a maximum of \$5,000, and authorizes the Board of Stewards to invoke a maximum fine of \$1,500. During the negotiations prior to introduction of this legislation, discussions were held regarding making some changes in the statutory provisions

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relating to Nebraska-bred quarter horses. At the time of introduction of this bill all parties had not agreed, but since that time an agreement has been reached regarding this subject, and that agreement is reflected in the committee amendment to follow. Having worked as the employee assistance counselor in the Nebraska racing industry for the past 15 years, I think that this is an extraordinary opportunity to increase much needed funding for the Racing Commission, and just the idea that all stakeholders--racetracks, horsemen, and breeders--have agreed on anything should be a signal that this is good legislation. I urge you to adopt the committee amendment, vote in favor of the amended bill, and send it to Select File. Thank you. If there's any questions, I'd be more than glad to try and answer them.

SENATOR CUDABACK: Thank you, Senator Dwite Pedersen. There are committee amendments. Chairman Janssen of the committee, you're recognized to open.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members of the Legislature, AM0091, which I will ask you to advance after it has been replaced with AM1189, is an amendment that was presented to the committee at the bill's hearing. The purpose of the amendment is to encourage quarter horse breeding and racing in Nebraska. I have introduced an amendment to this amendment that will replace the contents of the committee amendments. It is simply a clarification of the language that was presented to us in the committee hearing. I will explain the amendment when I open on AM1189. Thank you.

SENATOR CUDABACK: Mr. Clerk, please.

ASSISTANT CLERK: Mr. President, Senator Janssen would move to amend the committee amendments with AM1189. (Legislative Journal page 1241.)

SENATOR CUDABACK: Senator Janssen, to open.

SENATOR JANSSEN: Thank you, Senator Cudaback. Members, this amendment would replace the contents of AM0091. It is simply a clear way to say what the original committee amendments

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proposed. Nebraska currently has thoroughbred racing at its racetracks. The industry, including breeders, would like to encourage growth to the category of quarter horse racing. The statutes now state that since the purpose of the horse racing statute is to encourage agriculture and horse breeding in Nebraska, every track licensed is required to hold at least one race on each racing day limited to Nebraska-bred horses only. To further encourage such in-state breeding, the amendment adds reference to quarter horse racing that would give...that would require that the quarter horse racetracks, on those tracks, there must be a preference given to Nebraska-bred horses. So, for quarter horse racing, any Nebraska-bred horse must be put in the race before out-of-state horses. This requirement would put in place for a period of three years, beginning in September, so this will allow enough time for the certified, meaning eligible for racing, quarter horse registry to be built up. When the three-year period is over, the registry will be filled with eligible to race quarter horses, and the requirement that at least one race on racing days be run with Nebraska-only horses will return. Thank you.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the opening on AM1189 to committee amendments. Open for discussion. Seeing no lights on, Senator Janssen. He waives closing. The question before the body is AM1189, which amends the General Affairs Committee amendment. All in favor vote aye; opposed, nay. Voting on adoption of the amendment to the committee amendments. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 26 ayes, 0 nays on the adoption of the Janssen amendment, Mr. President.

SENATOR CUDABACK: AM1189 has been adopted. Anything further on the committee amendment, Mr. Clerk?

ASSISTANT CLERK: Nothing further to the committee amendments, Mr. President.

SENATOR CUDABACK: Discussion of committee amendments? Seeing no lights on, Senator Janssen, you're recognized to close. He

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LB 343, 573

waives closing. The question before the body is adoption of the committee amendments, offered by the General Affairs Committee, to LB 573. All in favor vote aye; opposed vote nay. The question before the body is adoption of the committee amendments. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of committee amendments.

SENATOR CUDABACK: Committee amendments are adopted. Anything further on the bill, Mr. Clerk?

ASSISTANT CLERK: Nothing further.

SENATOR CUDABACK: Discussion of the advancement of LB 573? Senator Dwite Pedersen waives closing. The question before the body is, shall LB 573 advance to E & R Initial? All in favor vote aye; opposed, nay. Voting on advancement of LB 573. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 31 ayes, 0 nays on the motion to advance the bill.

SENATOR CUDABACK: LB 573 advances. At the request of the Speaker, we will pass over LB 589 and LB 589A. We now go to the last bill on General File, LB 343. Mr. Clerk, please.

ASSISTANT CLERK: Mr. President, LB 343 was introduced by Senator Baker. (Read title.) Bill was read for the first time on January 11 of this year, referred to the Transportation and Telecommunications Committee. The committee reports the bill to General File with committee amendments. (AM0648, Legislative Journal page 680.)

SENATOR CUDABACK: Senator Baker, to open.

SENATOR BAKER: Thank you, Senator Cudaback and members. This was our Transportation, Telecommunications second priority bill. We held hearings, interim hearings, on this issue in Hastings

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and Lincoln last year. I'm laying a little bit of a foundation for some of the new members here, how we got where we are. This was...originally, we had proposed, through LB 1211 several years ago, a statewide communications network and, quite honestly, it was a grand and noble plan that we couldn't get funded. I think Senator Beutler carried a bill one year to fund it through a surcharge on electric consumers, and so on, et cetera; could never find a funding mechanism; could never really get a handle on what it might cost. It was all the way from \$100 million to \$180 million, something like that, to implement a new technology, statewide seamless communications, interoperable communications network. In the meantime, technology has changed and homeland security monies became available to the states. That was an administrative decision by then Governor Johanns to proceed with distributing homeland security monies by a grant process to be used for telecommunications, the seamless network. Regions were formed. I think the largest one in the state is the south-central or southwest Nebraska region; has 21 counties in it, I believe, at this time. That particular region expects to be up and running a seamless network by the end of the year, sometime in December of 2005. What the bill does is it eliminates the advisory board that was formed in original LB 1211. These...and we established the Public Safety Communication Advisory Board and it's a five-person board. It's in Section 7 of the committee...actually, the committee amendments become the bill and I'm not going to take all this time to reiterate what's in the committee amendments, but the committee amendments are the bill and it establishes the Regional Interoperability Advisory Board, I believe there's five people on the board, shall provide advice to the division, meaning Division of Communication within the state, regarding the formation, expansion and enhancement of regional systems. I said they're already out there. The counties have worked well together, municipalities, fire departments. They're going. We had good testimony to this effect and, hence, we've moved the bill. The advisory board shall consist of a representative of Division of Communications, representative of NEMA--Nebraska Emergency Management Act (sic), and four representatives from regional wireless communication systems. Actually, I guess there would be six. This board does sunset. It terminates on January 1 of 2009. The amendment...I think maybe I will stop

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there, Senator or Mr. President, but that, the committee amendment, as I said, is the bill and I will go ahead and let the process take hold here and, with that, thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Baker. There are committee amendments, as stated. As Chairman of committee, you're recognized to open, Senator Baker.

SENATOR BAKER: Thank you again, Mr. President and members. Very briefly, I pick up where I left off. This does eliminate the...what was formed, the SCAN board, the Statewide Communications Alliance Network, and replaces it with the Regional Interoperability Advisory Board, which sunsets in 2009. We have, through the homeland security grant process, we've provided about somewhere in the vicinity of \$40 million into the state's communications systems. Technology has changed to where we have what are ACU-1000 units that our committee, the Transportation, Telecommunications Committee, was briefed numerous times by various entities here. They're using this and vendors and so on; quite impressive. The process has moved forward rapidly and I would ask for adoption of the committee amendments. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Baker. Mr. Clerk, please.

ASSISTANT CLERK: Mr. President, Senator Baker would move to amend the committee amendments with AM1326. (Legislative Journal page 1372.)

SENATOR CUDABACK: Senator Baker, to open.

SENATOR BAKER: Thank you, Mr. President and members. Once again, this is more a technical cleanup amendment here, the amendment to the committee amendment. I've been asked by several people what in the world Chapter 58-202 is doing in a communications bill, and I...it's befuddled some people, but if you'll look clear back on page 10 of the amendment to the committee amendments, we changed the name of the Nebraska Public Safety Wireless Communication System Act to the Nebraska Public Safety Communication System Act. We dropped that "Wireless"

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out. Most of what's in the amendment to the committee amendments is striking that word "wireless" and clear back, as I said, on page 10 of this you'll see that one word was stricken out of Chapter 58, Section 202 back there, the word "wireless," and basically that's what the amendment to the committee amendments, it would be AM1326, does to clarify some language. And I'd ask for adoption of AM1326 to the committee amendment. Thank you, Mr. President.

SENATOR CUDABACK: You've heard the opening on the Baker amendment to the Transportation Committee amendment. Open for discussion. Senator Wehrbein, followed by Senator Brown.

SENATOR WEHRBEIN: Mr. President and members, I'll be supportive of the amendments and the bill, but I just wanted to insert into the record about the fact there's a lot more than meets the eye to the bill, and we've moved on from that. But SCAN, which this amendment does abolish officially, SCAN board, which was the Statewide Communications Alliance for Nebraska, was established by this Legislature in 2001 or 2002 under LB 1211 for the creation of a state and local agency which was formed for interlocal agreements for the purpose of developing a statewide interoperable seamless communication system for public safety and utility personnel. Counties, cities, volunteer firefighters, public power, and state agencies are represented on this SCAN board. It is an interlocal agency. All I want to say is there was individuals appointed to that from across the state spent hours, and hours, and hours, and hours of their own time volunteering to come up with a statewide system. We have trashed that at this point. This dissolves SCAN. There's a lot of hard work went into that and this bill now, LB 343, takes us in another direction and I just wanted to make that on the record. I probably will have more to say on Select File because I had another bill that was to continue that. Suffice it to say I just want to publicly acknowledge that there was many individuals, spent a lot of time working on this, on the SCAN board, and now that work has basically gone for naught as we've gone to another direction. But I think that they ought to be complimented and thanked for the hard work that was done. Thank you.

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SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senator Wehrbein. Senator Brown, your light is next.

SENATOR BROWN: Thank you, Madam President. I echo some of what Senator Wehrbein said. I would take...I certainly thank the people that worked on the SCAN board and I think that their work was not for naught (laugh) because I think that even though we are going in a different direction the principles, in terms of the interoperability and making sure that what we do eventually yields a statewide system. I think that the truth was that the...well, there was a variety of numbers, but somewhere between \$60 million and \$160 million to do the statewide system just wasn't ever there in a lump sum amount. And by virtue of some of the federal money, we were able to develop a plan that is going to get us to, eventually, to a statewide system. And the critical piece of this, of the amendment, AM0648, and I support the pending amendment, the technical amendment, but most importantly the Transportation Committee's amendment, is that it requires a plan for interoperability to the grants that are being received on a regional basis, and if we do nothing else, that's the piece that we absolutely have to do. But I would echo the part of what Senator Wehrbein said about thanking the individuals who worked on the plan, because even though the plan didn't end up exactly that way, their work helped inform the position that we are in where I really am hopeful for maybe the first time that we're going to end up with a statewide system. Thank you.

SENATOR SCHIMEK: Thank you, Senator Brown. Senator Mines, your light is next, followed by Senators Johnson, Preister, and Baker. You're recognized.

SENATOR MINES: Thank you, Madam Chair. Colleagues, I take a bit of a different approach on this bill, LB 343. Have no doubt that the amendment will pass and that the bill will advance, as well. And my comments, for the record, are maybe a little bit more pointed and poignant. This whole SCAN event was a football fumbled over, and over, and over. SCAN was politicized, SCAN was ignored, and then, frankly, SCAN was given a black mark

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because they didn't agree with homeland security's direction. SCAN, as you've heard Senators Wehrbein and Brown say, the folks involved, the people involved, were outstanding. They did what we the body directed them to do--develop a statewide interoperable system for the safety and security of our citizens. They did that. The...and particularly I think those that need to be recognized are Colonel...or General Lempke and Colonel Nesbitt. These gentlemen went above and beyond, even in the political environment in which they live. In 2002, the SCAN board, under the leadership of Lieutenant Governor Heineman at the time, developed an RFP and, Senator Brown, the...prior to that, the...there was an RFP sent out and both Motorola and M/A-COM/Raycom bid, and DAS that issued the RFP did so with a \$78 million price tag. It wasn't \$160 million or somewhere between \$60 million and \$160 million. It was \$78 million. That fell through. And SCAN was told to develop a system and they did just that. They have done what this body wanted them to do. Now, political events and times change. There is new leadership, there is new direction and, frankly, I introduced a bill in 2004 that would result in a tax on electric power and that fell the weight of the Titanic. It's about funding, and it's always about money, and there appears to be money in the homeland security budget, but it's not for a statewide system. This is for a regional noninteroperable system. Someday, you know, maybe someday when we're still alive it will be a statewide system. The pockets, the areas, that have a regional system will be just fine. It's those people in greater Nebraska that don't access a regional system that need help. Like when the Norfolk savings and loan is...or bank is robbed and they drive through Neligh, I can promise there's not going to be an interoperable system any further than that. This was to be a statewide system. It's not. It will not be for quite some time. And I know the bill is going to go through, but I wanted to get this on the record just because. Thank you, Madam Chair.

SENATOR SCHIMEK: Thank you, Senator Mines. Senator Baker, you are recognized to speak.

SENATOR BAKER: There are...are there any other lights, Senator, Madam President?

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SENATOR SCHIMEK: Yes, there's one other light.

SENATOR BAKER: Okay. I'd be very short. I also want to reiterate my thanks to the SCAN board. Their work was not for...it was not for naught, as Senator Brown said. They...we did learn a great deal from what the SCAN board did and Colonel Nesbitt, of course, chaired that. It was a nine-person board. They did a lot of good work. General Lempke put a lot of time in on that, they all did, and we learned from it. We got a basic idea what the price was going to be. We could not find a funding mechanism; hence, we took a different path here, direction. So I did want to speak to that effect. We do appreciate what the SCAN board did. There was dedicated people on it and they worked well with us. It simply, as somebody else said, I think Senator Mines, we took a different direction with funding and the regional concept. With that, I return the rest of my time to the Chair. Thank you.

SENATOR SCHIMEK: Thank you, Senator Baker, and I must inform you that that other light went off while you were talking, so you may now close on your amendment to the committee amendments.

SENATOR BAKER: Thank you, Madam President. I would simply ask that you adopt AM1326, which is a technical part of...amendment to the committee amendment. With that, thank you.

SENATOR SCHIMEK: Thank you, Senator Baker. The question is the adoption of AM1326 to the committee amendment. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Madam President, on adoption of Senator Baker's amendment to the committee amendments.

SENATOR SCHIMEK: The amendment is adopted. We are now back to discussion of the Transportation Committee amendment, AM0648. Seeing no lights, Senator Baker, to close on the committee amendment.

SENATOR BAKER: Thank you, Madam President, members. Once again, the committee amendment does become the bill. It sets up

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the Regional Interoperability Advisory Board, a six-person board. That board does sunset January 1, 2009. I think Senator Johnson, I could speak for what he would hope to have spoken to, that is working. It's the south-central Nebraska network regional concept, is out there, going, expects to have this all in place by end of this calendar year. It does require that...the committee amendment does require that they have the interoperability capabilities within this, and that's part of the grant process before the money was awarded through the homeland security grants. With that, I would ask for adoption of the committee amendment to LB 343. Thank you.

SENATOR SCHIMEK: Thank you, Senator Baker. You've heard the closing on the committee amendment. The question is the adoption of AM0648. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Madam President, on adoption of committee amendments.

SENATOR SCHIMEK: The committee amendment is adopted. We are now back to discussion of LB 343. Senator Baker, seeing no further lights, on advancement. Senator Baker waives closing and so the question is the advancement of LB 343 to E & R Initial. All in favor vote aye; all opposed vote nay. Record, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Madam President, on the advancement of LB 343.

SENATOR SCHIMEK: LB 343 advances. Items for the record?

CLERK: Madam President, Enrollment and Review reports LB 28 and LB 211A as correctly engrossed. New A bill. (Read LB 761A by title for the first time.) Amendments to be printed: Senator Foley, LB 484; Senator Mines, LB 465; Senator Landis, LB 13A. That's all that I had, Madam President. (Legislative Journal pages 1739-1744.)

SENATOR SCHIMEK: Thank you, Mr. Clerk. Next bill.

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CLERK: Madam President, back to LB 40, discussed this morning. Enrollment and Review amendments were considered and adopted, as was an amendment by Senator Redfield to the bill. Senator Redfield had pending AM1666. (Legislative Journal page 1678.)

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Redfield, you are recognized to open on AM1666.

SENATOR REDFIELD: Madam President, we have actually opened on AM1666 previously.

SENATOR SCHIMEK: You had opened?

SENATOR REDFIELD: Yes, we had.

SENATOR SCHIMEK: All right, then we are open for discussion of AM1666. Senator Flood, your light is on next. Yes, Senator Smith, for what purpose do you rise?

SENATOR SMITH: Yeah, I thought there was an amendment filed to AM1666. Is that accurate?

SENATOR SCHIMEK: Let me...let me check. There is a committee...or an amendment to the amendment, so, Mr. Clerk.

CLERK: Senator Smith would move to amend Senator Redfield's amendment, Madam President.

SENATOR SCHIMEK: Senator Smith, you are recognized to open on your amendment.

SENATOR SMITH: Okay. I apologize for the confusion, but I do wish to withdraw that amendment.

SENATOR SCHIMEK: Thank you, Senator Smith. That's what we thought.

SENATOR SMITH: Thank you.

SENATOR SCHIMEK: Are there any further amendments, Mr. Clerk?

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CLERK: Not to Senator Redfield's amend...no, I have nothing further to Senator Redfield's amendment.

SENATOR SCHIMEK: Then we will go back to the discussion on AM1666. And, Senator Flood, you are recognized to open on that or to discuss that.

SENATOR FLOOD: Thank you, Madam President. I would yield some of my time to Senator Redfield. There's been an agreement in this matter.

SENATOR SCHIMEK: Senator Redfield, can you use the time?

SENATOR REDFIELD: Thank you, yes. I just wanted to make sure we dealt with the other amendment that had been filed. I am going to pull this amendment. I want to explain to the body what we have talked about. Senator Flood has always been a supporter of LB 40, and he's certainly sympathetic, and I believe he'll tell you that, with the goal of a fair distribution of funds throughout the state. What has been unfair is that Omaha and Lincoln have been left out of the distribution and, yes, they are...they can qualify for community development block grants, but those are also distributed throughout the state and other communities have not been eliminated from our Affordable Housing Trust Fund. So the agreement is this. We're going to withdraw both of the amendments. We're going to move forward on the bill because what's important is that we get the distribution out to those entities that can provide housing for those with serious mental illness. That's the thrust of this bill, and making the Affordable Housing Trust Fund whole, which the bill does as it sits. So we will be putting pressure on DED to make sure that the funds that go out in the future are distributed. We'll be watching very carefully this year and if, in fact, we don't believe, Senator Flood and Senator Chambers and myself, if we don't believe that's happened over the next year we'll make sure that we come back and cut the budget for DED to a sensible amount until they cooperate. So I think our goal for everyone here is that we are fair in our distribution. And with that, I will return the time to Senator Flood and then, when he's through, I'll withdraw the amendment.

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SENATOR SCHIMEK: Thank you, Senator Redfield. The...Senator Flood, you're recognized.

SENATOR FLOOD: Thank you, Madam President. I'd like to thank Senator Redfield for her efforts on this. She has been very artful and has been dealing with a number of different interests and has balanced those interests very well, together with Senator Synowiecki. I would agree we want something that's fair, but the process still has to be competitive. And giving an entitlement to one area was the concern that I shared and I would hope that the Department of Economic Development would recognize a need in Omaha as well as a need in Ord or Neligh or wherever else. And I would just ask that the department pays close attention to the funds that belong in areas that need them, and Omaha has a need, Bellevue has a need, and Lincoln has a need, and the rural areas of Douglas, Sarpy County also have needs, and Lancaster County, but we have them out in rural Nebraska. I appreciate Senator Redfield's assistance in pulling this amendment, and if the Department of Economic Development is listening, and they should be today, I will be interested to see how those funds are used next year. Hopefully, our Governor and the state can secure and continue to conserve...secure federal funds to help our efforts at providing affordable housing across the state, and I want to put a pitch in for the bill. The bill goes beyond affordable housing. It addresses behavioral health, housing for folks that are suffering from an illness or getting behavioral health concerns under control, and I...with your help we can make sure that that housing is available across the state so that they can live, work, and operate in their own communities. So this is a very good bill. It will achieve great things. Nobody likes to see an increase, but when we look at what we're faced with from behavioral health to getting a home for the working poor, I think it's an excellent start, and I appreciate Senator Redfield's efforts. Thank you, Madam President.

SENATOR SCHIMEK: The amendment is withdrawn. Next amendment, Mr. Clerk.

CLERK: Mr. President (sic), the next amendment, Senator

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Preister, AM1693. (Legislative Journal page 1711.)

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Preister, you are recognized to speak.

SENATOR PREISTER: Thank you, Honorable President, friends all. Last Thursday, I looked in the World-Herald and the headline read "HUD bungling costly to Omaha." And it went on and independent investigation had determined that federal housing officials bungled the process last year to award \$157 million in grants to reduce lead-based paint hazard, further proof to Omaha officials that the city was unfairly denied its grant. Loss of the \$3 million grant dealt a serious blow to Omaha's efforts to repair deteriorating lead paint in houses and has delayed efforts to reduce the threat of lead poisoning to young children. That got my attention real quickly and I began talking to members on the floor. I talked with Senator Schrock. He and I went to visit with the Governor and the director of the Department of Environmental Quality. We were searching for ways to address this for the future. That may go on so that a correction can be made to how these failings of the allocation process were conducted. But, in the meantime, that money is not coming to Omaha to continue these abatement programs. So the amendment that I have before you takes no funds from the Affordable Housing Trust Fund. Rest assured I'm not affecting that fund. But it would provide \$300,000 as a stopgap measure to keep these lead-based programs going until another funding cycle can come in. So an amendment that's before you would provide \$300,000 one time, this time to go to the lead-based paint remediation program that's a certified program that the city is conducting already, so that we don't lose continuity on these contracts we've currently got going, and to keep the program moving forward until additional funding cycle comes forward. The money will come from the Leaking Underground Storage Tank Fund. That fund is solvent. It is not in any jeopardy and these monies would not pose a problem to the fund. I did check with the fund, and the solvency is there. I did visit with Senator Jensen from Health and Human Services Committee. I visited with Senator Schrock, obviously, as I said. I have visited with a number of members and given them information about this, Senator Don Pederson as well, the Chair

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of the Appropriations Committee. So I have tried to cover all bases. For some people this is new. But I thank certainly Senator Redman (sic) for her assistance on this bill, and would be happy to entertain any questions if anyone has them. Thank you.

SENATOR SCHIMEK: Thank you, Senator Preister. Senator Synowiecki, you are recognized to speak.

SENATOR SYNOWIECKI: Thank you, Senator Schimek, members of the Legislature. Thank you, Senator Preister, for your resourcefulness in trying to secure at least a stopgap measure for what you're doing in terms of the lead-based paint hazard that is very real and apparent and substantial within the city of Omaha. And I know that will be of quite benefit to families in the Omaha area, particularly those that are living in older homes, in older structures. And also, to get back to some of Senator Flood's remarks and Senator Redfield's relative to the Department of Economic Development and the Housing Trust Fund distribution, you know, there's no question in my mind that an equitable distribution of funds under that program has to recognize where a majority of the funds are being derived from, and I will, as well with Senator Redfield and Senator Flood, closely monitor the distribution of them funds under the Housing...Affordable Housing Trust Fund. I think it's also important to also remember that we're here, under LB 40, and we did a lot of work relative to behavioral health, precisely because the Department of Economic Development did not handle the \$2 million appropriation under LB 1083 very well. Quite frankly, the \$2 million that was appropriated, and there was an E clause on the bill, we wanted to streamline as part of the LB 1083 reforms housing for the mental health patients. There was...there was no question that there was direct legislative intent that this money was to be streamlined to get to these individuals that are recovering from mental health...from mental illness and streamline these monies to these individuals. And here we were in 2005, well into the 2005 Session, and we became aware these funds were still sitting in some fund with the Department of Economic Development. So not only do we have questions relative to this department as it pertains to the Housing Trust Fund monies and the distributions relative to that

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fund. We also have some serious questions relative to how they handled the LB 1083 reform monies and the fact that the Legislature had to come in, in a subsequent session, and rectify that situation. So I very much appreciate the discussion and I very much appreciate the remarks by Senator Redfield and Senator Flood. And again, relative to Senator Preister's amendment, I appreciate the resourcefulness of Senator Preister. It's a very important issue, particularly to those that are living in the older homes, and majority of which are my district in Omaha, and would hope that you support AM1693. And as Senator Preister underscored, these are not Affordable Housing Trust Fund monies. These are not monies that are set aside on the behavioral health end of things. These are monies from another separate cash fund that can, if you will, spare the monies that Senator Preister has allocated as a stopgap measure. Thank you, Senator Schimek.

SENATOR SCHIMEK: Thank you, Senator Synowiecki. Senator Bourne, you are recognized to speak. Senator Bourne waives. Senator Jensen, you are recognized.

SENATOR JENSEN: Thank you, Madam President, members of the Legislature. I'd just echo what Senator Synowiecki said. The original intent of LB 1083 was to get these dollars out and get them out very soon to help those people with mental illness. And so I do support LB 40. I think Senator Redfield, Senator Synowiecki have worked very hard on that issue and I'm so pleased to be at this point where it looks like that we can move forward on that. And then I also want to give credit to Senator Preister for recognizing a problem, and so often these are problems that we didn't create, but because of a mismanagement of HUD and some other agencies, we got left out of this, and that just shouldn't happen. But if we don't address this, we have an agency there that just completely shuts down altogether, and that isn't right either. It's always harder to get them back up and running. So it's a temporary measure, it's a small amount of dollars, but it will keep this agency together and keep them working to address particularly those areas east of 42nd Street where, yes, lead abatement is going on right now, and it is very important that we do that. Because children who grow up in those areas and in those homes and in those yards that they're playing, once they induce so much lead into their

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body and into their brain, they have trouble functioning. And so it's spending the dollars at this point in time and to get to this going as quickly as we can. We had it going but, because of some funds that were not appropriated, now we have a problem. So temporarily this will take care of it and it just tells all of us that we need to watch diligently to see that proper funds, both federal and state, are applied in a proper way. Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Jensen. Senator Smith, the Chair recognizes you to speak next.

SENATOR SMITH: Thank you, Madam Chair. If Senator Preister would yield to a question.

SENATOR SCHIMEK: Senator Preister, would you yield?

SENATOR PREISTER: Yes, I will.

SENATOR SMITH: Senator Preister, I just wanted to confirm that this is a one-time situation where it would expire then, this specific provision would expire on September...or after September '05?

SENATOR PREISTER: Correct, Senator. We're making a one-time appropriation and that's it.

SENATOR SMITH: Okay. So that would...then it just reverts back to...gets rid of that provision and reverts back to the rest of the state in other areas as needed?

SENATOR PREISTER: Everything would stay as it is currently and however those funds were allocated through DEQ would continue to be that way. I don't change anything other than providing this \$300,000 would be transferred one time. There will be that amendment on the A bill to make that transfer. This just does the enabling legislation in statute. Is that what you're asking?

SENATOR SMITH: Yes, that's very good. Thank you, Senator Preister.

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SENATOR PREISTER: Okay. Thank you. You're welcome.

SENATOR SMITH: Thank you, Senator Preister. Madam Chair and members, I am wanting to address this issue a little broader, but perhaps I will speak to the bill. Thank you.

SENATOR SCHIMEK: Thank you, Senator Smith and Preister. Senator Howard, you're recognized to speak.

SENATOR HOWARD: Thank you, Madam President and members of the body. I'd like to thank Senator Preister for bringing in this amendment. It's of particular concern when bureaucratic agents...agency's bungling leads to serious consequences for children, and I just would like to share a bit of information regarding this matter. The greatest risk of injury from lead poisoning is to children under the age of 7, whose developing bodies and brains are sensitive to even small amounts of lead. This can leave children with irreversible injury that does not appear until many years after the exposure to the lead. The kinds of injuries lead causes in children include learning disabilities; brain damage; loss of I.Q. points in intellect; academic failure; attention deficit disorder; hyperactive behavior; antisocial, also known as criminal, behavior; major organ failure; coma; and the worst possible consequence would be death. So you see this has lasting implications. This could start very early with a child just teething, teething on a window sill. This is a problem that we have a responsibility to address, and I thank Senator Preister. And I return the balance of my time to the Chair.

SENATOR SCHIMEK: Thank you, Senator Howard. We are on the discussion of AM1693. Senator Preister, I see no other lights. Would...Senator Preister waives on closing, so the question is the adoption of AM1693 to LB 40. All in favor say aye...or...no, I'm sorry. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 28 ayes, 0 nays, Madam President, on adoption of Senator Preister's amendment.

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SENATOR SCHIMEK: The amendment is adopted. We are now back to discussion of the bill. Mr. Clerk.

CLERK: Senator Smith would move to amend. (FA303, Legislative Journal page 1744.)

SENATOR SCHIMEK: Senator Smith, you're recognized to open on your amendment, FA303.

SENATOR SMITH: Thank you, Madam President and members of the body. I filed this amendment because I believe there needs to be some discussion, number one, on the amount of increase. I think that it needs to be discussed that this is a pretty significant amount, and I think that we need to take pause and realize that. There are different ways of working on this, but I've worked on Affordable Housing Trust Fund before and we have had the issue before us. We had a sunset clause the first time around and on the first group of Affordable Housing Trust Fund dollars. And some folks came to me a few years back and said, Adrian, would you consider lifting or proposing to lift the sunset on the bill or on the issue of the documentary stamp tax going to affordable housing? And I looked into it and I thought that's a pretty decent idea. There was no net tax increase in that bill. The Affordable Housing Trust Fund dollars, instead of going to affordable housing, they were going to revert back to the General Fund, and so we lifted that sunset. It was a almost unanimous consent of the body, but nonetheless it moved forward. Then, through the difficult budget times, the Governor proposed to cut back some of that, not all of it but a substantial portion of it, and so now we're looking at a pretty sizeable increase, especially when you look at it as a percentage increase. And so I think that it warrants some discussion. There might be other ways to do this. Perhaps a sunset of five years would be another way to look at that. But I think it needs to be discussed that the significance of this increase is real. And so I would encourage the body. I am proposing in this amendment, on page 2, line 7, to just strike the 25 cents so that it's still an increase. It goes from \$1.75 to \$2.00, rather than \$1.75 to \$2.25, and it scales back the increase. And I would appreciate hearing the feedback, but it's something that I think certainly warrants some discussion.

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Thank you, Madam President.

SENATOR SCHIMEK: Thank you, Senator Smith. You've heard the opening on FA303. Senator Redfield, you are recognized to speak next.

SENATOR REDFIELD: Thank you, Madam President. Members of the body, I rise actually to oppose the amendment because technically it will not work. The distributions throughout the bill actually are addressed in a number of pages, and to just strike 25 cents on one page of the bill in one reference actually technically will not work, because we will have distribution of more funds than we will have collected. So, Senator Smith, if you're serious about this, this bill will not...or amendment will not work as it is currently drafted. So I would rise to oppose that. That certainly was not part of the deal that we worked out and so I would respectfully ask him to reconsider whether he wants to go forward with this amendment. Thank you.

SENATOR SCHIMEK: Thank you, Senator Redfield. Senator Bourne, you're recognized to speak next.

SENATOR BOURNE: Thank you, Madam President, members. Would Senator Redfield yield to a question or two, please?

SENATOR SCHIMEK: Senator Redfield, would you yield?

SENATOR REDFIELD: Yes, I would.

SENATOR BOURNE: Senator Redfield, I've always supported the Affordable Housing Trust and, as a matter of fact, we all have had many defeats on the floor of the Legislature, and one of the most stinging in my mind was when I tried to overturn the Appropriations Committee's decision to take a certain amount of money out of that Affordable Housing Trust. I think I was here...I had been here a year or two, and it was just at the start of our budget problems and I think I had three or four votes to try to stop them from doing that. You and I had a discussion on the floor, and I know Senator Chambers was involved as well on General File. My concern is, is that the

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city of Omaha is contributing to this fund through documentary, through the tax stamp fees, but I had some information that they have not received a grant from this Affordable Housing Trust Fund in the past. Is that...is that your understanding as well?

SENATOR REDFIELD: Actually, they have received some. They received only one grant last, in 2004. In 2003 they received zero and, just a minute, I have it right here, in 2002 they received one grant, in 2000 one grant, in 1999 one grant.

SENATOR BOURNE: Okay and I, again, you and I, and I'm not criticizing you at all, but you and I had a discussion on this and I thought we had an agreement that there was going to be your amendment, and I was in a meeting when you withdrew your amendment, that said there would be some sort of a fair allocation amongst the congressional districts, and yet you withdrew the amendment. Can I ask you what the reason behind the withdrawal of that amendment was?

SENATOR REDFIELD: Well, quite simply, it's defined by seven days. Certainly we would have had time to fight this out and talk about it and come to an agreement, but with seven days left in the session I was concerned about getting the rental assistance out to the different districts so that in fact we can move people out of some of the homes. But I am certainly sympathetic to the distribution. I think Senator Flood has agreed it should be fairly distributed, and so the agreement was that we would put pressure administratively on seeing that that distribution occurred. And if it did not occur, then next year we would come back and make sure that we either moved the distribution of the funds to a different agency or, in fact, would cut the budget of the agency that is responsible.

SENATOR BOURNE: So did Senator Flood encourage you to withdraw the amendment?

SENATOR REDFIELD: Actually, it was worked out because Senator Smith had put an amendment up on the amendment and, in order to get to it, to discuss it, we had to clear off Senator Smith's amendment to the amendment, so that was the most expeditious way to get the bill moved forward so that we didn't run out of time

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before the end of the session.

SENATOR BOURNE: Senator Redfield, I represent an area that's known as north Omaha and there are a lot of poor people up there, and this money is very important to my district and others in north...the north and east part of the city. And I guess my question to you is, is why, why, give me some advice as to why a legislator such as myself would vote for a bill that increases, basically is a tax increase, and yet there is no guarantee that my community will share in this increased tax? Matter of fact, there's a precedent that the DED has basically turned its back on grants from my community. Can you give me some advice as to why would I vote for such a bill?

SENATOR REDFIELD: Well, first of all, your district would not be spared from paying for the tax. What I believe you're saying is that they would not share in the distribution from that tax.

SENATOR BOURNE: Historically, I believe that's an accurate statement.

SENATOR REDFIELD: And so the reason I would give you as a legislator, and the reason I absolutely support the bill, is because in fact we are currently paying almost \$500 a day from some people to receive services...

SENATOR SCHIMEK: One minute.

SENATOR REDFIELD: ...in behavioral health that actually could be delivered on the community level, and it could cost us about \$500 a month, rather than a day. Now, I think that's a good value for the taxpayers of Nebraska. And so I want to move the bill forward. And that's the portion that Senator Synowiecki actually prioritized.

SENATOR BOURNE: I appreciate that. But let's talk specifically about that portion of the doc. stamp tax that goes to affordable housing. And you're increasing that in your bill by...from \$1.75 to \$2.25. Is that accurate?

SENATOR REDFIELD: Yes. It's a 50-cent increase.

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SENATOR BOURNE: A 50-cent increase. So specifically as it relates to that amendment, maybe we should just strike the increase there. Because I'm not at all comfortable that the DED is going to do the right thing and award these grants equitably. And be assured, I don't want any money that's not...that we're not entitled to. I just want there to be an equitable allocation. And the letters I get...

SENATOR SCHIMEK: Time.

SENATOR BOURNE: ...from my community indicate it's not fair.

SENATOR SCHIMEK: Thank you, Senators Bourne and Redfield. Senator Smith, you're recognized to speak.

SENATOR SMITH: Thank you, Madam President and members. I rise to commend Senator Bourne for, I think, adding to the discussion here. And you all know my remarks this morning that followed Senator Flood's remarks on the distribution. And if there is an unwritten policy, perhaps, within the bureaucracy, perhaps that needs to be changed. But again, I want to emphasize the fact that there are a lot of built-in economic development components, without tax increases, that exist in the larger cities in our state that do not exist across rural Nebraska. And if I put myself in the shoes of Senator Bourne, I would probably be a little incensed. Perhaps that's not what he would call himself right now, incensed. But I would certainly draw attention to the fact that there's a tax increase in a major portion of the revenue-generating area of the state, and none of that is guaranteed to come back. I would also warn the body that if we all engaged in that concept, it could get a little dicey. But I feel that there has been such a rush to raise the tax contained in LB 40, that has no sunset clause. And I think that we need to have more discussion on that. And that's why I will be proposing a five-year sunset when the amendment is ready. But I think we need...I know that we need to be careful here. When the Affordable Housing Trust Fund originally had the sunset that I sought to remove, I thought it was a good idea, even though I wasn't here at the time, that the sunset be placed, so that there could be, I think, some...a greater deal

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of accountability. And I think that the dollars were well spent. Perhaps we need a lever now to make sure that there is a fair and even distribution across the state. And I think that can be accomplished through a five-year sunset clause. But what concerns me the most is that there has kind of been this rush to increase the tax without as much discussion as I think it warrants. And I do have a question for Senator Redfield.

SENATOR SCHIMEK: Senator Redfield, would you respond to a question?

SENATOR REDFIELD: Yes, I would.

SENATOR SMITH: Senator Redfield, you very adequately and appropriately pointed out the drafting errors in the floor amendment that I drafted. And I did it out of haste, and I apologize about that. You didn't really speak to the merits of decreasing...or, holding back on part of the increase. Would you support pulling it back to \$2.00, instead of \$2.25?

SENATOR REDFIELD: Well, Senator, I believe that the appropriate number would be to cut it 20 cents, if what you're looking at is the Affordable Housing Trust portion. Because 30 cents of the 50 cents is designated to the Behavioral Fund, Behavioral Health Fund. So the difference is 20 cents, not 25 cents. Should we look at cutting that? You have to look at the benefit that the state accrues when people become homeowners. They establish wealth as they build up equity in their home. That allows them not only to pay property taxes that go into the local coffers to support the schools, the cities, the counties, and the other taxing entities. And so there's a great deal of value that the general population actually accrue from that increase in activity. Should we give them an extra 20 cents? Well, that actually was the bill that I went to the Revenue Committee with, was with the intent of making them whole.

SENATOR SCHIMEK: One minute.

SENATOR REDFIELD: Senator Bourne referred to the fact that for three years, under the Governor's cut of the budget, \$1.5 million out of this fund was stripped out and thrown into

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the General Fund. We have two years yet to go on that distribution. And so the extra money was to just take them back to where they were before we took money out of the Affordable Housing Trust Fund and diverted it for rental for those with serious mental illness, and for the General Fund distribution. Maybe we could put a sunset that would match...on the 20 cents, that would match where we were, or where we would be after we finish with the General Fund distribution.

SENATOR SMITH: Thank you. I think my time is up.

SENATOR SCHIMEK: Thank you, Senator Smith. The next speaker, Senator Chambers, the Chair recognizes you.

SENATOR CHAMBERS: Madam President, I think an amendment is going to come up there to cut the increase in this tax. And that's the way it should be. And then these people from the areas outside of Douglas County can make do the best that they can. But I've been to Norfolk before, and I've gotten material from Norfolk. It's one of the most racist parts of the state, from my personal experience. And some of the people who live...I've gone up there to give talks. I was invited by a high school class, and others. And some of the things that were said by people in the audience ought not be said anywhere, and wouldn't be said in Mississippi. So when Senator Flood stands up and does his soap-boxing, people need to know the kind of place he comes from, and I've been there. I'm not talking about what people have told me. And I still get material from Norfolk, Nebraska. I used to share it with Gene Tyson. Gene knows what kind of place it is. And Latinos who live there know what kind of place it is. So to equate what's happening there with what some of us are trying to do in Omaha is preposterous. And Senator Flood doesn't care about this bill, if we kill it. He welcomes that. He said so. He welcomes that battle, and he can have it. But see, he got a bill through earlier in the session that I could have killed. And I worked with him and I helped him and I got nothing out of the bill. So sometimes these new people come here and they get carried away. But there's another session next year. And I'd venture to say Senator Flood won't have a serious bill next year, like he did earlier this year. I spent a lot of time trying to help work

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out formulas for various entities, and read through a very poorly written bill. He acknowledged it. But he got his safely in port. I don't carry grudges, but I have a long memory. And when people think, because they managed to get something through, that they're smart, smarter than they are, and think they somehow run things, they're going to have the opportunity to put it to the test. Now, he may think that he scored a coup on this bill because Senator Redfield withdrew an amendment. But sometimes people treasure up wrath against the day of wrath. I don't regret helping him on that first bill, because I had a different set of circumstances within which I was working from those that exist now. This is not my bill. I did not offer the amendment that Senator Redfield offered. But I was very interested in that amendment. And what I would have gone to the mat for was one to take back one dollar for every dollar put in. And Senator Flood said it shouldn't be an Omaha versus rural battle. Those fault lines exists. And I'm going to see how much the rural people will stand together. We've only got seven days left in this session, so very little can happen, except that damage can be done. But people need to count up the amount of the damage.

SENATOR SCHIMEK: One minute.

SENATOR CHAMBERS: To some people, an interim is a long time. For me, it's like a day, because I come down here every day anyway. And I have a chance to review what happened during the session, review what my colleagues have done. I get transcripts. I read what they've said. And sometimes I'm able to say, I told you so. But I'm prepared for this battle. And I'm going to vote for taking away that increase in that documentary stamp tax. It was a stamp tax that helped contribute to the American Revolution. So sometimes that which seems innocuous can have very wide-ranging ramifications, because that triggering incident merely ignites something much bigger that was percolating all the time.

SENATOR SCHIMEK: Time.

SENATOR CHAMBERS: Thank you, Madam President.

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SENATOR SCHIMEK: Thank you, Senator Chambers. The Chair recognizes Senator Bourne to speak.

SENATOR BOURNE: Thank you, Madam President, members. Listen, I was looking at the bill, and I'm trying to determine how we can simply remove the increased tax that is allocated to the affordable housing program. And I don't know that I can do that that easily, because it's talking about transferring \$2 million from the Affordable Housing Trust Fund to the Behavioral Health Services Fund. And then there's an increase of, I think it was, 50 cents or 75 cents, as mentioned by Senator Redfield. But I think what I'm going to do is I'm going waive off for now, and I'm going to go and I'm going to file the original amendment that Senator Redfield withdrew, and that was, I believe, AM1446. Because that is what we agreed to on General File. It was AM1446, and that simply said that there's going to be an equitable allocation of these funds. And I can imagine each of you would be frustrated if you and your community had applied for this money and were rejected time and time again. So I'm trying to...there's no one in here that would advocate someone supporting an increased tax if they know their community isn't going to share in that increased grant money. So I'm going to get that amendment that Senator Redfield withdrew, that we had agreed on, and I'm going to file that. And hopefully, I can convince the body to adopt that amendment. I can't imagine anyone in here would not support an amendment that simply provides an equitable allocation amongst all the communities in our state. And that's what I'm going to shoot for. I'm going to go get that amendment, and I'm going to file that. Thank you.

SENATOR SCHIMEK: Thank you, Senator Bourne. Senator Smith, you're...wait a minute. The Chair recognizes the Speaker for a brief announcement.

SPEAKER BRASHEAR: Madam President, members of the body, I wouldn't want you to miss the subtleties of the moment, so I thought I would share with you that we were in the process of redefining late nights. Because I had been assured that this bill would move, reliably assured, and I'm not faulting anyone--the process is what the process is, and sometimes it

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surprises you--and that the next bill would be fine. And so I sent, deliberately, having learned that the media was stalking the fact that the lobbyists feed us, I sent \$700 worth of lobby food to the City Mission. (Laughter) That will be a story. Now they have something else to write about. And so just to show you...I keep telling people we're in the ugly season of the session. So we're going to pull this bill. It will appear on the agenda tomorrow. That will give everybody some time with which to work. And we're going to proceed to the next bill. And after that, we will redefine a late night session by adjourning. You have worked very, very hard today, and I thank you for all your work and effort.

SENATOR SCHIMEK: Thank you, Mr. Speaker. Mr. Clerk, are there other bills?

CLERK: Madam President, LB 114 on Select File, no Enrollment and Review. Senator Byars would move to amend the bill with AM1480. (Legislative Journal page 1678.)

SENATOR SCHIMEK: Thank you. Senator Byars, you are recognized to open on your amendment.

SENATOR BYARS: Thank you very much, Madam President and members of the body. As we left LB 114 on General File, you'll remember that the bill itself requires an exam for vision for children entering kindergarten, rather than the perfunctory type of review that their vision has at this time. A question at that point by Senator Chambers and Senator Bourne was to make sure that there would be information available in their kindergarten registration and roundup materials that would make it absolutely certain that every family knew that if they chose to opt out, they would be able to do so, just like they do with the regular physical exam, and they would have information available to them on a private basis, so that they didn't have to be embarrassed in any way to gather...to get information for a free or reduced exam, and free services if those were necessary. So to accommodate both Senator Bourne and Senator Brashear...excuse me, Senator Chambers, I do offer AM1480, which requires that a telephone number or other contact information that would assist the parent or guardian in receiving information regarding free

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or reduced cost visual evaluations for low-income families who qualify. And I'll reiterate that it is already in the bill and already being used in kindergarten registration pieces, that if you choose to exercise an option to waive this requirement, you can do so. And I want to make certain that it's understood that this isn't something then that falls back on the school districts to assume any kind of financial liability for these exams or for any type of treatment. There are at least three different sources for the free and reduced type exams and services, one of them being 1-800-VISION, which I think we talked about in the context of General File. And the amendment is that simple. And I have visited with both Senator Bourne and Senator Chambers, and they are comfortable with this amendment, in making certain that low-income individuals are taken care of. And with that, I would ask that AM1480 be advanced.

SENATOR SCHIMEK: Thank you, Senator Byars. We are on the discussion of AM1480. Senator Howard, you're recognized.

SENATOR HOWARD: Thank you, Madam President and members of the body. And thank you, thank you, Senator Byars, for bringing in this important bill. Some basic facts that are important to remember is that most eye problems can be corrected if they are detected and treated early. Appropriate eye care is essential for maintaining vision. It has been estimated that 75 to 90 percent of all learning in the classroom comes to the child either wholly or partially via visual pathways. The child cannot develop to his fullest potential if he is having vision problems. Children with undetected vision problems are sometimes inaccurately diagnosed as having ADD, Attention Deficit Disorder, or ADHD, Attention Deficit Hyperactivity Disorder, and various other behavior problems. Discipline and these behavior problems in the classroom can be related to the visual development of the child. Making a stronger attempt to detect it and correct the underlying visual problems, with lenses, with corrective glasses, in a method that addresses the child's need, can prove to be a more effective classroom management strategy than stricter discipline. Thank you, Madam Chairman, and I return the balance of my time.

SENATOR SCHIMEK: Thank you, Senator Howard. Senator Byars,

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there are no further lights. Would you like to close on AM1480? He waives closing. So the question is the adoption of AM1480 to LB 114. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk.

CLERK: 25 ayes, 0 nays on adoption of Senator Byars' amendment.

SENATOR SCHIMEK: The amendment is adopted. We are now back to discussion of the bill, LB 114. Seeing no lights, Senator Byars. Senator Byars waives closing. So the question is the advancement of LB 114 to E & R Engrossing. All in favor vote aye; all opposed vote nay. Excuse me. All in favor say aye. All opposed, no. The ayes have it. The bill advances. Mr. Clerk, are there items?

CLERK: Madam President, Enrollment and Review reports LR 12CA as correctly engrossed. I have an amendment, Senator McDonald, to LB 332A, to be printed; LB 577, an amendment by Senator Raikes. (Legislative Journal pages 1744-1746.)

Priority motion, Madam President: Senator Combs would move to adjourn until Wednesday morning, May 25, at 9:00 a.m.

SENATOR SCHIMEK: Thank you, Mr. Clerk. The motion is to adjourn until tomorrow morning at 9:00 a.m. All in favor vote aye; all opposed...or, all in favor say aye. All opposed vote nay. The ayes have it. We are adjourned. Thank you.

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